Title 17
Penal Code

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Title Notes

Notes

See 2 PNC § 102 for all references to ministry names in this title.

RPPL 9-21 significantly revised this title. The short title of RPPL 9-21 is "the Penal Code of the Republic of Palau", however, there is no short title within the quoted material. Therefore, a reference to "Act" sometimes refers to RPPL 9-21, the amendments made by RPPL 9-21, the entire title (Penal Code), or the specific chapter in which such reference appears. The Code Commission has left the text as it is in RPPL 9-21.

DIVISION 1 — GENERAL PRINCIPLES

Chapter 1 — Preliminary Provisions

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 1 read §§ 100–112, which has been renumbered to §§ 101–113 to conform with the Style of the Code.

§ 101. Applicability of offenses committed before the effective date of this Act.

(a) Except as provided in subsection (b), this Penal Code does not apply to offenses committed before the effective date of this Act. Prosecutions for offenses committed before the effective date of this Act are governed by prior law, which shall continue in effect for that purpose as if this Act were not in force. An offense is committed before the effective date of this Act if any of the elements of the offense occurred before that date.

(b) In any case pending on or commenced after the effective date of this Act involving an offense committed before that date, upon the request of the defendant, and subject to the approval of the court, the provisions of this Penal Code may be applied in particular cases.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 101 and § 5 [Chapter 1 § 100], modified, adds section.

Notes
RPPL 9-21 came into effect on April 24, 2013.

§ 102. All offenses defined by statute; applicability to offenses committed after the effective date.

(a) No behavior constitutes an offense unless it is a crime or violation under this Penal Code or another statute of the Republic of Palau.

(b) The provisions of this Penal Code govern the construction of and punishment for any offense set forth herein committed after the effective date, as well as the construction and application of any defense to a prosecution for such an offense.

(c) The provisions of this Act are applicable to offenses defined by other statutes, unless other statutes within the Palau National Code provide otherwise.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 101 and § 5 [Chapter 1 § 101], modified, adds section.

§ 103. Purposes of this Code.

The purposes of this Penal Code are to codify the general principles of the penal law and to define and codify certain specific offenses which constitute harms to basic social interests that the Penal Code seeks to protect.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 103 and § 5 [Chapter 1 § 102], modified, adds section.

§ 104. Principles of construction.

The provisions of this Penal Code cannot be extended by analogy so as to create crimes not provided for herein; however, in order to promote justice and effect the objects of the law, all of its provisions shall be given a genuine construction, according to the fair import of the words, taken in their usual sense, in connection with the context, and with reference to the purpose of the provision.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 104 and § 5 [Chapter 1 § 103], modified, adds section.

§ 105. Penal jurisdiction.

(a) Except as otherwise provided in this section, a person may be convicted under the law of the Republic of Palau of an offense committed by the person's own conduct or the conduct of another for which the person is legally accountable if:

(1) either the conduct or the result of conduct that is an element of the offense occurs within the Republic of Palau; or

(2) conduct occurring outside of the Republic of Palau is sufficient under the law of the Republic to constitute an attempt to commit an offense within the Republic of Palau; or

(3) conduct occurring outside of the Republic of Palau is sufficient under the law of the Republic to constitute a conspiracy to commit an offense within the Republic and an overt act in furtherance of such conspiracy occurs within the Republic of Palau; or

(4) conduct occurring within the Republic of Palau establishes complicity in the commission of, or an attempt, solicitation, or conspiracy to commit, an offense in another jurisdiction that is also an offense under the law of the Republic of Palau; or

(5) the offense consists of the omission, while within or outside the Republic of Palau, to perform a legal duty imposed by the law of the Republic of Palau with respect to domicile, residence, or a relationship to a person, thing, or transaction in the Republic of Palau; or

(6) the offense is based on a statute of the Republic of Palau that expressly prohibits conduct outside the Republic, when the conduct bears a reasonable relation to a legitimate interest of the Republic of Palau and the person knows that the person's conduct is likely to affect that interest.

(b) Subsection (a)(1) does not apply when a specified result, or conduct creating a risk of such a result, is an element of an offense and the result occurs, or is intended or is likely to occur, only in another jurisdiction where the conduct charge would not constitute an offense, unless a legislative purpose plainly appears to declare that the conduct constitutes an offense regardless of the place of the result.

(c) Subsection (a)(1) does not apply when a particular result is an element of an offense and the result is caused by conduct occurring outside of the Republic of Palau which conduct would not constitute an offense if the result had occurred there, unless the person intentionally or knowingly caused the result within the Republic of Palau.

(d) When the offense involves a homicide, either the death of the victim or the bodily impact causing death constitutes a "result", within the meaning of subsection (a)(1). If the body of a homicide victim is found within the Republic of Palau, it is prima facie evidence that the result occurred within the Republic.

(e) The Republic of Palau includes the land and water and the air space about the land and water with respect to which the Republic of Palau has legislative jurisdiction.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 105 and § 5 [Chapter 1 § 104], modified, adds section.

§ 106. Grades and classes of offenses.

(a) An offense defined by this Penal Code or by any other statute of the Republic of Palau for which a sentence of imprisonment is authorized constitutes a crime. Crimes are of three grades: felonies, misdemeanors, and petty misdemeanors. Felonies include murder in the first and second degrees, attempted murder in the first and second degrees, human smuggling, aggravated human smuggling, human trafficking, aggravated human trafficking, trafficking in children, aggravated trafficking in children, exploiting a trafficked person, exploiting a trafficked child, attempted human trafficking, attempted trafficking in children, and the following three classes: class A, class B, and class C.

(b) A crime is a felony if it is so designated in this Penal Code or in a statute other than this Penal Code enacted subsequent thereto, or if it is defined in a statute other than this Penal Code, or if persons convicted thereof may be sentenced to a term of imprisonment that is in excess of one year.

(c) A crime is a misdemeanor if it is so designated in this Penal Code or in a statute other than this Penal Code enacted subsequent thereto, or if it is defined in a statute other than this Penal Code that provides for a term of imprisonment the maximum of which is one year.

(d) A crime is a petty misdemeanor if it is so designated in this Penal Code or in a statute other than this Penal Code enacted subsequent thereto, or if it is defined by a statute other than this Penal Code that provides that persons convicted thereof may be sentenced to imprisonment for a term not to exceed thirty days.

(e) An offense defined by this Penal Code or by any other statute of the Republic of Palau constitutes a violation if it is so designated in this Penal Code or in the law defining the offense or if no other sentence than a fine, or fine and forfeiture or other civil penalty, is authorized upon conviction or if it is defined by a statute other than this Penal Code which provides that the offense shall not constitute a crime. A violation does not constitute a crime, and conviction of a violation shall not give rise to any civil disability based on conviction of a criminal offense.

(f) Any offense declared by law to constitute a crime, without specification of the grade thereof or of the sentence authorized upon conviction, is a misdemeanor.

(g) An offense defined by any statute of the Republic of Palau other than this Penal Code shall be classified as provided in this section and the sentence that may be imposed upon conviction shall be governed by this Penal Code unless the other statute provides otherwise.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 106 and § 5 [Chapter 1 § 105], modified, adds section.
RPPL 11-28 § 4 amends subsection (a).

§ 107. Time limitations.

(a) A prosecution for murder, murder in the first and second degrees, attempted murder, and attempted murder in the first and second degree, criminal conspiracy to commit murder in any degree, and criminal solicitation to commit murder in any degree may be commenced at any time.

(b) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

(1) A prosecution for manslaughter where the death is not caused by the operation of a motor vehicle shall be commenced within ten (10) years after it is committed;

(2) A prosecution for a class A felony or for offenses set out in Chapter 21 of this title shall be commenced within six (6) years after it is committed.

(3) A prosecution for a class B felony shall be commenced within five (5) years after it is committed.

(4) A prosecution for any other felony shall be commenced within three (3) years after it is committed.

(5) A prosecution for a misdemeanor shall be commenced within two (2) years after it is committed; and

(6) A prosecution for a petty misdemeanor or a violation shall be commenced within one (1) year after it is committed.

(c) If the period prescribed in subsection (b) has expired, a prosecution may nevertheless be commenced for:

(1) any offense an element of which is either fraud, deception, as defined in 17 PNC Chapter 23 of this Penal Code, or a breach of fiduciary obligation within three years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is oneself not a party to the offense, but in no case shall this provision extend the period of limitations by more than six (6) years from the expiration of the period of limitation prescribed in subsection (b); and

(2) any offense based on misconduct in office by a public official or employee at any time when the defendant is in public office or employment or within two (2) years thereafter, but in no case shall this provision extend the period of limitation by more than three (3) years from the expiration of the period of limitation prescribed in subsection (b).

(d) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct

or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(e) A prosecution is commenced either when an information or similar charging instrument is filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay.

(f) The period of limitation does not run:

(1) during any time when the accused is continuously absent from the Republic or has no reasonably ascertainable place or abode or work within the Republic, but in no case shall this provision extend the period of limitation by more than four (4) years from the expiration of the period of limitation prescribed in subsection (b);

(2) during any time when a prosecution against the accused for the same conduct is pending in the Republic; or

(3) for any felony offense under 17 PNC Chapter 16 relating to Sexual Offenses, during any time when the victim is alive and under eighteen (18) years of age.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 107 and § 5 [Chapter 1 § 106], modified, adds section.
RPPL 11-28 § 5 amends subsections (b)(1) and (2).

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

Notes
RPPL 12-3 § 78(g) extends the statute of limitations for certain offenses, violations, or liabilities relating to unjustified tax exemptions by an additional eight years. Due to its context and lack of codification instructions, the Code Commission has determined that Section 78(f) applies in limited circumstances and is not general and permanent in nature and therefore has not been codified.

§ 108. Method of prosecution when conduct establishes an element of more than one offense.

(a) When the same conduct of a defendant may establish an element of more than one offense, the defendant may be prosecuted for each offense of which such conduct is an element. The defendant may not, however, be convicted of more than one offense if:

(1) one offense is included in the other, as defined in subsection (d) of this section; or

(2) one offense consists only of a conspiracy or solicitation to commit the other; or

(3) inconsistent findings of fact are required to establish the commission of the offenses; or

(4) the offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct; or

(5) the offense is defined as a continuing course of conduct and the defendant's course of conduct was uninterrupted, unless the law provides that specific periods of conduct constitute separate offenses.

(b) Except as provided in subsection (c) of this section, a defendant shall not be subject to separate trials for multiple offenses based on the same conduct or arising from the same episode, if such

offenses are known to the appropriate prosecuting officer at the time of the commencement of the first trial and are within the jurisdiction of a single court.

(c) When a defendant is charged with two or more offenses based on the same conduct or arising from the same episode, the court, on application of the Attorney General or of the defendant, may order any such charge to be tried separately, if it is satisfied that justice so requires.

(d) A defendant may be convicted of an offense included in an offense charged in the information. An offense is so included when:

(1) it is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or

(2) it consists of an attempt to commit the offense charged or to commit an offense otherwise included therein; or

(3) it differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property, or public interest or a different state of mind indicating lesser degree of culpability suffices to establish its commission.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 108 and § 5 [Chapter 1 § 107], modified, adds section.

Supreme Court Cases
Tewid v. Republic of Palau, 2026 Palau 2 ¶ 11, 14 (App. Div.).

§ 109. When prosecution is barred by former prosecution for the same offense.

When a prosecution is for an offense under the same statutory provision and is based on the same facts as a former prosecution, it is barred by the former prosecution under any of the following circumstances:

(1) The former prosecution resulted in an acquittal that has not subsequently been set aside. There is an acquittal if the prosecution resulted in a finding of not guilty by the trier of fact or in a determination by the court that there was insufficient evidence to warrant a conviction. A finding of guilty of a lesser included offense is an acquittal of the greater inclusive offense, although the conviction is subsequently set aside on appeal by the defendant.

(2) The former prosecution was terminated, after the information or similar charging instrument has been filed, by a final order or judgment for the defendant, which has not been set aside, reversed, or vacated and that necessarily required a determination inconsistent with a fact or legal proposition which must be established for conviction of the offense.

(3) The former prosecution resulted in a conviction. There is a conviction if the prosecution resulted in a judgment of conviction that has not been reversed or vacated, a verdict of guilty that has not been set aside and which is capable of supporting a judgment, or a plea of guilty or no contest accepted by the court.

(4) The former prosecution was improperly terminated. Except as provided in this subsection, there is an improper termination of a prosecution if the termination is for reasons not amounting to an acquittal, and it takes place after the first witness is sworn

but before verdict. Termination under any of the following circumstances in not improper:

(A) The defendant consents to the termination or waives, by motion to dismiss or otherwise, the defendant's right to object to the termination.

(B) The trial court finds the termination is necessary because:

(i) it is physically impossible to proceed with the trial in conformity with law; or

(ii) there is a legal defect in the proceedings that would make any judgment entered upon a verdict reversible as a matter of law; or

(iii) prejudicial conduct, in or outside the courtroom, makes it impossible to proceed with the trial without injustice to either the defendant or the Republic of Palau; or

(iv) the jury or trier of fact is unable to agree on a verdict; or

(v) false statements of a juror on voir dire prevent a fair trial.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 1 § 108], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 110. Proof beyond a reasonable doubt.

(a) Except as otherwise provided in 17 PNC Section 111, no person may be convicted of an offense unless the following are proven beyond a reasonable doubt:

(1) each element of the offense;

(2) the state of mind required to establish each element of the offense;

(3) facts establishing jurisdiction;

(4) facts establishing venue; and

(5) facts establishing that the offense was committed within the time period specified in 17 PNC Section 107.

(b) In the absence of the proof required by subsection (a), the innocence of the defendant is presumed.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 1 § 109], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 111. Defenses.

(a) A defense is a fact or set of facts that negates penal liability.

(b) No defense may be considered by the trier of fact unless evidence of the specified fact or facts has been presented. If such evidence is presented, then:

(1) if the defense is not an affirmative defense, the defendant is entitled to an acquittal if the trier of fact finds that the evidence, when considered in the light of any contrary prosecution evidence, raises a reasonable doubt as to the defendant's guilt; or

(2) if the defense is an affirmative defense, the defendant is entitled to an acquittal if the trier of fact finds that the evidence, when considered in the light of any contrary prosecution evidence, proves by a preponderance of the evidence the specified fact or facts that negate penal liability.

(c) A defense is an affirmative defense if:

(1) it is specifically so designated by this Penal Code or other statute; or

(2) if this Penal Code or another statute plainly requires the defendant to prove the defense by a preponderance of the evidence.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 1 § 110], modified.

§ 112. Prima facie evidence.

Prima facie evidence of a fact is evidence that, if accepted in its entirety by the trier of fact, is sufficient to prove the fact. Prima facie evidence provisions of this Penal Code are governed by Republic of Palau Rules of Evidence.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 1 § 111], modified.

Cross-references
ROP Rules of Evidence.

§ 113. General definitions.

In this Penal Code, unless a different meaning is plainly required:

(1) "statute" includes the Constitution of the Republic of Palau and any local law or ordinance of a political subdivision of the Republic of Palau, and any State Constitution and any State law or ordinance of a political subdivision of any State of the Republic of Palau;

(2) "act" or "action" means a bodily movement whether voluntary or involuntary;

(3) "omission" means a failure to act;

(4) "conduct" means an act or omission, or, where relevant, a series of acts or a series of omissions, or a series of acts and omissions;

(5) "actor" includes, a person who acts, or, where relevant, a person guilty of omission;

(6) "acted" includes, where relevant, "omitted to act";

(7) "person," "he," "she," "him," "her," "actor," and "defendant" include any natural person, including any natural person whose identity can be established by means of scientific analysis, including but not limited to scientific analysis of deoxyribonucleic

acid and fingerprints, whether or not the natural person's name is known, and, where relevant, a corporation or an unincorporated association;

(8) "another" means any other person and includes, where relevant, the Republic of Palau, and any of its political subdivisions, and any state and any of its political subdivisions;

(9) "state" means a state of the Republic of Palau; and

(10) "law enforcement officer" means any public servant, whether employed by the Republic of Palau or political subdivisions thereof, or any state thereof, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 1 § 112], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Chapter 2 — General Principles of Penal Liability

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 2 read §§ 200–236, which has been renumbered to §§ 201–237 to conform with the Style of the Code.

§ 201. Requirement of voluntary act or voluntary omission.

(a) In any prosecution it is a defense that the conduct alleged does not include a voluntary act or the voluntary omission to perform an act of which the defendant is physically capable.

(b) Where the defense provided in subsection (a) is based on a physical or mental disease, disorder, or defect which precludes or impairs a voluntary act or a voluntary omission, the defense shall be treated exclusively according to Chapter 5 of this Penal Code, except that a defense based on intoxication which is pathological or not self-induced which precludes or impairs a voluntary act or a voluntary omission shall be treated exclusively according to this chapter.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 200], modified.

§ 202. "Voluntary act" defined.

"Voluntary act" means a bodily movement performed consciously or habitually as the result of the effort or determination of the defendant.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 201], modified.

§ 203. Voluntary act includes possession.

Possession is a voluntary act if the defendant knowingly procured or received the thing possessed or if the defendant was aware of the defendant's control of it for a sufficient period to have been able to terminate the defendant's possession.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 202], modified.

§ 204. Penal liability based on an omission.

Penal liability may not be based on an omission unaccompanied by action unless:

(1) the omission is expressly made a sufficient basis for penal liability by the law defining the offense; or

(2) a duty to perform the omitted act is otherwise imposed by law.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 203], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 205. State of mind required.

Except as provided in 17 PNC Section 213, a person is not guilty of an offense unless the person acted intentionally, knowingly, recklessly, or negligently, as the law specifies, with respect to each element of the offense. When the state of mind required to establish an element of an offense is not specified by the law, that element is established if, with respect thereto, a person acts intentionally, knowingly, or recklessly.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 204], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 206. Elements of an offense.

The elements of an offense are such (a) conduct, (b) attendant circumstances, and (c) results of conduct, as:

(1) are specified by the definition of the offense; and

(2) negate a defense (other than a defense based on the statute of limitations, lack of venue, or lack of jurisdiction).

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 205], modified.

§ 207. Definitions of states of mind.

(a) "Intentionally."

(1) A person acts intentionally with respect to his or her conduct when it is his or her conscious object to engage in such conduct.

(2) A person acts intentionally with respect to attendant circumstances when he or she is aware of the existence of such circumstances or believes or hopes that they exist.

(3) A person acts intentionally with respect to a result of his or her conduct when it is his or her conscious object to cause such a result.

(b) "Knowingly."

(1) A person acts knowingly with respect to his or her conduct when he or she is aware that his or her conduct is of that nature.

(2) A person acts knowingly with respect to attendant circumstances when he or she is aware that such circumstances exist.

(3) A person acts knowingly with respect to a result of his or her conduct when he or she is aware that it is practically certain that his or her conduct will cause such a result.

(c) "Recklessly."

(1) A person acts recklessly with respect to his or her conduct when he or she consciously disregards a substantial and unjustifiable risk that the person's conduct is of the specified nature.

(2) A person acts recklessly with respect to attendant circumstances when he or she consciously disregards a substantial and unjustifiable risk that such circumstances exist.

(3) A person acts recklessly with respect to a result of his or her conduct when he or she consciously disregards a substantial and unjustifiable risk that his or her conduct will cause such a result.

(4) A risk is substantial and unjustifiable within the meaning of this section if, considering the nature and purpose of the person's conduct and the circumstances known to him or her, the disregard of the risk involves a gross deviation from the standard of conduct that a law-abiding person would observe in the same situation.

(d) "Negligently."

(1) A person acts negligently with respect to his or her conduct when he or she should be aware of a substantial and unjustifiable risk taken that the person's conduct is of the specified nature.

(2) A person acts negligently with respect to attendant circumstances when he or she should be aware of a substantial and unjustifiable risk that such circumstances exist.

(3) A person acts negligently with respect to a result of his or her conduct when he or she should be aware of a substantial and unjustifiable risk that his or her conduct will cause such a result.

(4) A risk is substantial and unjustifiable within the meaning of this subsection if the person's failure to perceive it, considering the nature and purpose of his or her conduct and the circumstances known to him or her, involves a gross deviation from the standard of care that a law-abiding person would observe in the same situation.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 206].

Supreme Court Cases
Ngeluk v. Republic of Palau, 2023 Palau 26 ¶ 8 (App. Div.).
Ngirakesiil v. ROP, 2021 Palau 23 ¶¶ 27, 28 n.7 (App. Div.).

§ 208. Specified state of mind applies to all elements.

When the definition of an offense specifies the state of mind sufficient for the commission of that offense, without distinguishing among the elements thereof, the specified state of mind shall apply to all elements of the offense, unless a contrary purpose plainly appears.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 207], modified.

§ 209. Substitutes for negligence, recklessness, and knowledge.

When the law provides that negligence is sufficient to establish an element of an offense, that element also is established if, with respect thereto, a person acts intentionally, knowingly, or recklessly. When the law provides that recklessness is sufficient to establish an element of an offense, that element also is established if, with respect thereto, a person acts intentionally or knowingly. When the law provides that acting knowingly is sufficient to establish an element of an offense, that element also is established if, with respect thereto, a person acts intentionally.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 208], modified.

§ 210. Conditional intent.

When a particular intent is necessary to establish an element of an offense, it is immaterial that such intent was conditional unless the condition negates the harm or evil sought to be prevented by the law prohibiting the offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 209], modified.

§ 211. Requirement of willfulness satisfied by acting knowingly.

A requirement that an offense be committed willfully is satisfied if a person acts knowingly with respect to the elements of the offense, unless a purpose to impose further requirements appears.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 210], modified.

§ 212. State of mind as determinant of grade or class of a particular offense.

When the grade or class of a particular offense depends on whether it is committed intentionally, knowingly, recklessly, or negligently, its grade or class shall be the lowest for which the determinative state of mind is established with respect to any element of the offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 211], modified.

§ 213. When state of mind requirements are inapplicable to violations and to crimes defined by statutes other than this Penal Code.

The state of mind requirements prescribed by 17 PNC Sections 205 and 208 through 212 do not apply to:

(1) an offense which constitutes a violation, unless the state of mind requirement involved is included in the definition of the violation or a legislative purpose to impose such a requirement plainly appears; or

(2) a crime defined by statute other than this Penal Code, insofar as a legislative purpose to impose absolute liability for such offense or with respect to any element thereof plainly appears.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 212], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 214. Effect of absolute liability in reducing grade of offense to violation.

Notwithstanding any other provisions of existing law and unless a subsequent statute otherwise provides:

(1) when absolute liability is imposed with respect to any element of an offense defined by a statute other than this Penal Code and a conviction is based upon such liability, the offense constitutes a violation except as provided in 17 PNC Section 213(2) above; and

(2) although absolute liability is imposed by law with respect to one or more of the elements of an offense defined by a statute other than this Penal Code, the culpable commission of the offense may be charged and proved, in which event negligence with respect to such elements constitutes a sufficient state of mind and the classification of the offense and the sentence that may be imposed upon conviction are determined by 17 PNC Section 106 of Chapter 1, and Chapter 6 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 213], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code. Sections referenced in this section have been renumbered to conform with the Code numbering format of the Style of the Code.

§ 215. Causal relationship between conduct and result.

Conduct is the cause of a result when it is an antecedent but for which the result in question would not have occurred.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 214], modified.

§ 216. Intentional or knowing causation; different result from that intended or contemplated.

In the following instances intentionally or knowingly causing a particular result shall be deemed to be established even though the actual result caused by the defendant may not have been within the defendant's intention or contemplation:

(1) the actual result differs from that intended or contemplated, as the case may be, only in the respect that a different person or different property is injured or affected or that the injury or harm intended or contemplated would have been more serious or more extensive than that caused; or

(2) the actual result involves the same kind of injury or harm as the intended or contemplated result and is not too remote or accidental in its occurrence or too dependent on another's volitional conduct to have a bearing on the defendant's liability or on the gravity of the defendant's offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 215], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 217. Reckless or negligent causation; different result from that within the risk.

In the following instances, recklessly or negligently causing a particular result shall be deemed to be established even though the actual result caused by the defendant may not have been within the risk of which the defendant was or, in the case of negligence, should have been aware:

(1) the actual result differs from the probable result only in the respect that a different person or different property is injured or affected or that the probable injury or harm would have been more serious or more extensive than that caused; or

(2) the actual result involves the same kind of injury or harm as the probable result and is not too remote or accidental in its occurrence or too dependent on another's volitional conduct to have a bearing on the defendant's liability or on the gravity of the defendant's offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 216], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 218. Causation in offenses of absolute liability.

When causing a particular result is an element of an offense for which absolute liability is imposed by law, the element is not established unless the actual result is a probable consequence of the defendant's conduct.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 217], modified.

§ 219. Ignorance or mistake as a defense.

In any prosecution for an offense, it is a defense that the accused engaged in the prohibited conduct under ignorance or mistake of fact if:

(1) the ignorance or mistake negates the state of mind required to establish an element of the offense; or

(2) the law defining the offense or a law related thereto provides that the state of mind established by such ignorance or mistake constitutes a defense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 218], modified.

§ 220. Ignorance or mistake; reduction in grade and class of the offense.

Although ignorance or mistake would otherwise afford a defense to the offense charged, the defense is not available if the defendant would be guilty of another offense had the situation been as the defendant supposed. In such case, however, the ignorance or mistake of the defendant shall reduce the grade and class of the offense of which the defendant may be convicted to those of the offense of which the defendant would be guilty had the situation been as the defendant supposed.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 219], modified.

§ 221. Ignorance or mistake of law; belief that conduct not legally prohibited.

In any prosecution, it shall be an affirmative defense that the defendant engaged in the conduct or caused the result alleged under the belief that the conduct or result was not legally prohibited when the defendant acts in reasonable reliance upon an official statement of the law, afterward determined to be invalid or erroneous, contained in:

(1) a statute or other enactment;

(2) a judicial decision, opinion, or judgment;

(3) an administrative order or administrative grant of permission; or

(4) an official interpretation of the public officer or body charged by law with responsibility for the interpretation, administration, or enforcement of the law defining the offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 220], modified.

§ 222. Liability for conduct of another.

(a) A person is guilty of an offense if it is committed by his or her own conduct or by the conduct of another person for which he or she is legally accountable, or both.

(b) A person is legally accountable for the conduct of another person when:

(1) acting with the state of mind that is sufficient for the commission of the offense, he or she causes an innocent or irresponsible person to engage in such conduct; or

(2) he or she is made accountable for the conduct of such other person by this Penal Code or by the law defining the offense; or

(3) he or she is an accomplice of such other person in the commission of the offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 221], modified.

Supreme Court Cases
Sugiyama v. Han, 2020 Palau 16 ¶ 35 (App. Div.).
Etpison v. ROP, 2017 Palau 32 ¶ 106 (App. Div.).

§ 223. Liability for conduct of another; complicity.

A person is an accomplice of another person in the commission of an offense if:

(1) with the intention of promoting or facilitating the commission of the offense, the person:

(A) solicits the other person to commit it; or

(B) aids or agrees or attempts to aid the other person in planning or committing it; or

(C) having a legal duty to prevent the commission of the offense, fails to make reasonable effort so to do; or

(2) the person's conduct is expressly declared by law to establish the person's complicity.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 222], modified.

Supreme Court Cases
Sugiyama v. Han, 2020 Palau 16 ¶ 35 (App. Div.).
Etpison v. ROP, 2017 Palau 32 ¶¶ 106, 108 n.1 (App. Div.).

§ 224. Liability for conduct of another; complicity with respect to the result.

When causing a particular result is an element of an offense, an accomplice in the conduct causing the result is an accomplice in the commission of that offense, if the accomplice acts, with respect to that result, with the state of mind that is sufficient for the commission of the offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 223], modified.

§ 225. Liability for conduct of another; exemption from complicity.

Unless otherwise provided by this Penal Code or by the law defining the offense, a person is not an accomplice in an offense committed by another person if:

(1) he or she is a victim of that offense; or

(2) the offense is so defined that his or her conduct is inevitably incident to its commission; or

(3) he or she terminates his or her complicity prior to the commission of the offense and:

(A) wholly deprives his or her complicity of effectiveness in the commission of the offense; or

(B) gives timely warning to law enforcement authorities or otherwise makes reasonable effort to prevent the commission of the offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 224], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 226. Liability for conduct of another; incapacity of defendant; failure to prosecute or convict or immunity of other person.

In any prosecution for an offense in which the liability of the defendant is based on conduct of another person, it is no defense that:

(1) the offense charged, as defined, can be committed only by a particular class of persons, and the defendant, not belonging to such class, is for that reason legally incapable of committing the offense in an individual capacity, unless imposing liability on the defendant is inconsistent with the purpose of the provision establishing the defendant's incapacity; or

(2) the other person has not been prosecuted for or convicted of any offense, or has been convicted of a different offense or degree of offense, based upon the conduct in question; or

(3) the other person has a legal immunity from prosecution based upon the conduct in question.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 225], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 227. Liability for conduct of another; multiple convictions; different degrees.

When, pursuant to any section from 17 PNC Section 222 through Section 224, two or more persons are liable for an offense that is divided into degrees, each person is guilty of the degree of the offense that is consistent with the person's own state of mind and with the person's own accountability for an aggravating fact or circumstance.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 226], modified.

Notes
Sections referenced in this section has been renumbered to conform with the Code numbering format.

§ 228. Penal liability of corporations and unincorporated associations.

A corporation or unincorporated association is guilty of an offense when:

(1) it omits to discharge a specific duty of affirmative performance imposed on corporations or unincorporated associations by law and the omission is prohibited by penal law; or

(2) the conduct or result specified in the definition of the offense is engaged in, caused, authorized, solicited, requested, commanded, or recklessly tolerated by the board of directors of the corporation or by the executive board of the unincorporated association or by a high managerial agent acting within the scope of the agent's office or employment and on behalf of the corporation or the unincorporated association; or

(3) the conduct or result specified in the definition of the offense is engaged in or caused by an agent of the corporation or the unincorporated association while acting within the scope of the agent's office or employment and in behalf of the corporation or the unincorporated association and:

(A) the offense is a misdemeanor, petty misdemeanor, or violation; or

(B) the offense is one defined by a statute that clearly indicates a legislative purpose to impose such criminal liability on a corporation or unincorporated association.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 227], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 229. Liability of persons acting, or under a duty to act, on behalf of corporations or unincorporated associations.

(a) A person is legally accountable for any conduct the person performs or causes to be performed in the name of a corporation or an unincorporated association or in its behalf to the same extent as if it were performed in the person's own name or behalf.

(b) Whenever a duty to act is imposed by law upon a corporation or an unincorporated association, any agent of the corporation or the unincorporated association having primary responsibility for the discharge of the duty is legally accountable for a reckless omission to perform the required act to the same extent as if the duty were imposed by law directly upon the agent.

(c) When a person is convicted of an offense by reason of the person's legal accountability for the conduct of a corporation or of an unincorporated association, the person is subject to the sentence authorized by law when a natural person is convicted of an offense of the grade and class involved.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 228], modified.

§ 230. Definitions relating to corporations and unincorporated associations.

As used in 17 PNC Sections 228 and 229 above:

(1) "corporation" does not include an entity organized as or by a governmental agency for the execution of a governmental program.

(2) "agent" means any director, officer, servant, employee or other person authorized to act on behalf of the corporation or association and, in the case of an unincorporated association, a member of such association.

(3) "high managerial agent" means an officer of a corporation or an unincorporated association, or, in the case of a partnership, a partner, or any other agent of a corporation or unincorporated association having duties of such responsibility that his or her conduct may fairly be assumed to represent the policy of the corporation or the unincorporated association.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 229], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code. Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 231. Intoxication.

(a) In this section:

(1) "intoxication" means a disturbance of mental or physical capacities resulting from the introduction of substances into the body;

(2) "self-induced intoxication" means intoxication caused by substances that the defendant knowingly introduces into the defendant's body, the tendency of which is to cause intoxication the defendant knows or ought to know, unless the defendant introduces them pursuant to medical advice or under such circumstances as would afford a defense to a charge of a penal offense;

(3) "pathological intoxication" means intoxication grossly excessive in degree, given the amount of the intoxicant, to which the defendant does not know the defendant is susceptible and that results from a physical abnormality of the defendant.

(b) Self-induced intoxication is prohibited as a defense to any offense, except as specifically provided in this section.

(c) Evidence of nonself-induced or pathological intoxication of the defendant shall be admissible to prove or negate the conduct alleged or the state of mind sufficient to establish an element of the offense. Evidence of self-induced intoxication of the defendant is admissible to prove or negate conduct or to prove state of mind sufficient to establish an element of an offense.

Evidence of self-induced intoxication of the defendant is not admissible to negate the state of mind sufficient to establish an element of the offense.

(d) Intoxication does not, in itself, constitute a physical or mental disease, disorder, or defect within the meaning of 17 PNC Chapter 5 of this Penal Code.

(e) Intoxication that:

(1) is not self-induced; or

(2) is pathological

is a defense if by reason of such intoxication the defendant at the time of the defendant's conduct lacks substantial capacity either to appreciate its wrongfulness or to conform the defendant's conduct to the requirements of law.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 230], modified.

§ 232. Duress.

(a) It is a defense to a penal charge that the defendant engaged in the conduct or caused the result alleged because he was coerced to do so by the use of, or a threat to use, unlawful force against his or her person or the person of another, which a person of reasonable firmness in his or her situation would have been unable to resist.

(b) The defense provided by this section is unavailable if the defendant recklessly placed himself or herself in a situation in which it was probable that he or she would be subjected to duress. The defense is also unavailable if he or she was negligent in placing himself or herself in such a situation, whenever negligence suffices to establish the requisite state of mind for the offense charged.

(c) It is not a defense that a person acted on the command of his or her spouse, unless he or she acted under such coercion as would establish a defense under this section.

(d) When the conduct of the defendant would otherwise be justifiable under 17 PNC Section 303 of this Penal Code, this section does not preclude the defense of justification.

(e) In prosecutions for any offense described in this Penal Code, the defense asserted under this section shall constitute an affirmative defense. The defendant shall have the burden of going forward with the evidence to prove the facts constituting such defense, unless such facts are supplied by the testimony of the prosecuting witness or circumstance in such testimony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 231], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 233. Consent; general.

In any prosecution, the victim's consent to the conduct alleged, or to the result thereof, is a defense if the consent negates an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 232], modified.

§ 234. Consent to bodily injury.

In any prosecution involving conduct that causes or threatens bodily injury, consent to such conduct or to the infliction of such injury is a defense if:

(1) the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic event or competitive sport; or

(2) the consent establishes a justification for the conduct under 17 PNC Chapter 3 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 233], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 235. Ineffective consent.

Unless otherwise provided by this Penal Code or by the law defining the offense, consent does not constitute a defense if:

(1) it is given by a person who is legally incompetent to authorize the conduct alleged; or

(2) it is given by a person who by reason of youth, mental disease, disorder, or defect, or intoxication is manifestly unable or known by the defendant to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct alleged; or

(3) it is given by a person whose improvident consent is sought to be prevented by the law defining the offense; or

(4) it is induced by force, duress or deception.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 234], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 236. De minimis infractions.

(a) The court may dismiss a prosecution if, having regard to the nature of the conduct alleged and the nature of the attendant circumstances, it finds that the defendant's conduct:

(1) was within a customary license or tolerance, which was not expressly refused by the person whose interest was infringed and that is not inconsistent with the purpose of the law defining the offense; or

(2) did not actually cause or threaten the harm or evil sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction; or

(3) presents such other extenuations that it cannot reasonably be regarded as envisaged by the legislature in forbidding the offense.

(b) The court shall not dismiss a prosecution under subsection (a)(3) of this section without filing a written statement of its reasons.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 235], modified.

§ 237. Entrapment.

(a) In any prosecution, it is an affirmative defense that the defendant engaged in the prohibited conduct or caused the prohibited result because the defendant was induced or encouraged to do so by a law enforcement officer, or by a person acting in cooperation with a law enforcement officer, who, for the purpose of obtaining evidence of the commission of an offense, either:

(1) knowingly made false representations designed to induce the belief that such conduct or result was not prohibited; or

(2) employed methods of persuasion or inducement that created a substantial risk that the offense would be committed by persons other than those who are ready to commit it.

(b) The defense afforded by this section is unavailable when causing or threatening bodily injury is an element of the offense charged and the prosecution is based on conduct causing or threatening such injury to a person other than the person perpetrating the entrapment.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 236], modified.

Chapter 3 — General Principles of Justification

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 3 read §§ 300–310, which has been renumbered to §§ 301–311 to conform with the Style of the Code.

§ 301. Definitions relating to justification.

In this chapter, unless a different meaning is plainly required:

(1) "believes" means reasonably believes.

(2) "deadly force" means force that the actor uses with the intent of causing or that the actor knows to create a substantial risk of causing death or serious bodily harm. Intentionally using a weapon capable of producing death or serious bodily injury constitutes deadly force. A threat to cause death or serious bodily injury, by the production of a weapon or otherwise, so long as the actor's intent is limited to creating an apprehension that the actor will use deadly force if necessary, does not constitute deadly force.

(3) "dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is for the time being a home or place of lodging.

(4) "force" means any bodily impact, restraint, or confinement, or the threat thereof.

(5) "unlawful force" means force that is employed without the consent of the person against whom it is directed and the employment of which constitutes an offense or would constitute an offense except for a defense not amounting to a justification to use the force. Assent constitutes consent, within the meaning of this section, whether or not it otherwise is legally effective, except assent to the infliction of death or serious or substantial bodily injury.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 301 and § 5 [Chapter 3 § 300], modified, adds section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 302. Justification a defense; civil remedies unaffected.

(a) In any prosecution for an offense, justification, as defined in 17 PNC Sections 303 through 310 of this chapter, is a defense.

(b) The fact that conduct is justifiable under this chapter does not abolish or impair any remedy for such conduct that is available in any civil action.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 302 and § 5 [Chapter 3 § 301], modified, adds section.

Notes
Sections referenced in this section has been renumbered to conform with the Code numbering format.

§ 303. Choice of evils.

(a) Conduct which the actor believes to be necessary to avoid an imminent harm or evil to the actor or to another is justifiable provided that:

(1) the harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by the law defining the offense charged; and

(2) neither the Penal Code nor other law defining the offense provides exceptions or defenses dealing with the specific situation involved; and

(3) a legislative purpose to exclude the justification claimed does not otherwise plainly appear.

(b) When the actor was reckless or negligent in bringing about the situation requiring a choice of harms or evils or in appraising the necessity for the actor's conduct, the justification afforded by this section is unavailable in a prosecution for any offense for which recklessness or negligence, as the case may be, suffices to establish culpability.

(c) In a prosecution for escape under 17 PNC Section 4001 or 4002, the defense available under this section is limited to an affirmative defense consisting of the following elements:

(1) the actor receives a threat, express or implied, of death, substantial bodily injury, or forcible sexual attack;

(2) complaint to the proper prison authorities is either impossible under the circumstances or there exists a history of futile complaints;

(3) under the circumstances there is no time or opportunity to resort to the courts;

(4) no force or violence is used against prison personnel or other innocent persons; and

(5) the actor promptly reports to the proper authorities when the actor has attained a position of safety from the immediate threat.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 3 § 302], modified.

Notes
Sections referenced in this section has been renumbered to conform with the Code numbering format.

§ 304. Execution of public duty.

(a) Except as provided in subsection (b) below, conduct is justifiable when it is required or authorized by:

(1) the law defining the duties or functions of a public officer or the assistance to be rendered to a public officer in the performance of the public officer's duties; or

(2) the law governing the execution of legal process; or

(3) the judgment or order of a competent court or tribunal;

(4) the law governing the armed services or the lawful conduct of war; or

(5) any other provision of law imposing a public duty.

(b) The other sections of this chapter apply to:

(1) the use of force upon or toward the person of another for any of the purposes dealt with in those sections; and

(2) the use of deadly force for any purpose, unless the use of deadly force is otherwise expressly authorized by law or occurs in the lawful conduct of war.

(c) The justification afforded by subsection (a) applies:

(1) when the actor believes the actor's conduct to be required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process; and

(2) when the actor believes the actor's conduct to be required or authorized to assist a public officer in the performance of the officer's duties, notwithstanding that the officer exceeded the officer's legal authority.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 3 § 303], modified.

§ 305. Use of force in self-protection.

(a) Subject to the provisions of this section and of 17 PNC Section 309, the use of force upon or toward another person is justifiable when the actor believes that such force is immediately necessary for the purpose of protecting himself or herself against the use of unlawful force by the other person on the present occasion.

(b) The use of deadly force is justifiable under this section if the actor believes that deadly force is necessary to protect himself or herself against death, serious bodily injury, kidnapping, rape, or forcible sodomy.

(c) Except as otherwise provided in subsections (d) and (e) of this section, a person employing protective force may estimate the necessity thereof under the circumstances as he or she believes them to be when the force is used without retreating, surrendering possession, doing any other act that he or she has no legal duty to do, or abstaining from any lawful action.

(d) The use of force is not justifiable under this section:

(1) to resist an arrest that the actor knows is being made by a law enforcement officer, although the arrest is unlawful; or

(2) to resist force used by the occupier or possessor of property or by another person on his or her behalf, where the actor knows that the person using the force is doing so under a claim of right to protect the property, except that this limitation shall not apply if:

(A) the actor is a public officer acting in the performance of his or her duties or a person lawfully assisting a public officer therein or a person making or assisting in a lawful arrest; or

(B) the actor believes that such force is necessary to protect himself or herself against death or serious bodily injury.

(e) The use of deadly force is not justifiable under this section if:

(1) the actor, with the intent of causing death or serious bodily injury, provoked the use of force against himself or herself in the same encounter; or

(2) the actor knows that he or she can avoid the necessity of using such force with complete safety by retreating or by surrendering possession of a thing to a person asserting a claim of right thereto or by complying with a demand that he or she abstain from any action which he or she has no duty to take, except that:

(A) the actor is not obliged to retreat from his or her dwelling or place of work, unless he or she was the initial aggressor or is assailed in his or her place of work by another person whose place of work the actor knows it to be; and

(B) a public officer justified in using force in the performance of his or her duties, or a person justified in using force in his or her assistance or a person justified in using force in making an arrest or preventing an escape, is not obliged to desist from efforts to perform his or her duty, effect the arrest, or prevent the escape because of resistance or threatened resistance by or on behalf of the person against whom the action is directed.

(f) The justification afforded by this section extends to the use of confinement as protective force only if the actor takes all reasonable measures to terminate the confinement as soon as he or she knows that he or she safely can, unless the person confined has been arrested on a charge of crime.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 3 § 304], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 306. Use of force for the protection of other persons.

(a) Subject to the provisions of this section and of 17 PNC Section 311, the use of force upon or toward the person of another is justifiable to protect a third person when:

(1) under the circumstances as the actor believes them to be, the person whom the actor seeks to protect would be justified in using such protective force; and

(2) the actor believes that the actor's intervention is necessary for the protection of the other person.

(b) Notwithstanding subsection (a) above:

(1) when the actor would be obliged under 17 PNC Section 305 to retreat, to surrender the possession of a thing, or to comply with a demand before using force in self-protection, the actor is not obliged to do so before using force for the protection of another person, unless the actor knows that the actor can thereby secure the complete safety of such other person; and

(2) when the person whom the actor seeks to protect would be obliged under 17 PNC Section 305 to retreat, to surrender the possession of a thing or to comply with a demand if the person knew that the person could obtain complete safety by so doing, the actor is obliged to try to cause the person to do so before using force in the person's protection if the actor knows that the actor can obtain the other's complete safety in that way; and

(3) neither the actor nor the person whom the actor seeks to protect is obliged to retreat when in the other's dwelling or place of work to any greater extent than in the actor's or the person's own.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 3 § 305], modified.

Notes
Sections referenced in this section has been renumbered to conform with the Code numbering format.

§ 307. Use of force for the protection of property.

(a) The use of force upon or toward the person of another is justifiable when the actor believes that such force is immediately necessary:

(1) to prevent the commission of criminal trespass or burglary in a building or upon real property in the actor's possession or in the possession of another person for whose protection the actor acts; or

(2) to prevent unlawful entry upon real property in the actor's possession or in the possession of another person for whose protection the actor acts; or

(3) to prevent theft, criminal mischief, or any trespassory taking of tangible, movable property in the actor's possession or in the possession of another person for whose protection the actor acts.

(b) The actor may in the circumstances specified in subsection (a) use such force as the actor believes is necessary to protect the threatened property, provided that the actor first requests the person against whom force is used to desist from the person's interference with the property, unless the actor believes that:

(1) such a request would be useless; or

(2) it would be dangerous to the actor or another person to make the request; or

(3) substantial harm would be done to the physical condition of the property that is sought to be protected before the request could effectively be made.

(c) The use of deadly force for the protection of property is justifiable only if:

(1) the person against whom the force is used is attempting to dispossess the actor of the actor's dwelling otherwise than under a claim of right to its possession; or

(2) the person against whom the deadly force is used is attempting to commit felonious property damage, burglary, robbery, or felonious theft and either:

(A) has employed or threatened deadly force against or in the presence of the actor; or

(B) the use of force other than deadly force to prevent the commission of the crime would expose the actor or another person in the actor's presence to substantial danger of serious bodily injury.

(d) The justification afforded by this section extends to the use of a device for the purpose of protecting property only if:

(1) the device is not designed to cause or known to create a substantial risk of causing death or serious bodily injury; and

(2) the use of the particular device to protect the property from entry or trespass is reasonable under the circumstances, as the defendant believes them to be; and

(3) the device is one customarily used for such a purpose or reasonable care is taken to make known to probable intruders the fact that it is used.

(e) The justification afforded by this section extends to the use of confinement as protective force only if the actor takes all reasonable measures to terminate the confinement as soon as the actor knows that the actor can do so with safety to the property, unless the person confined has been arrested on a charge of crime.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 3 § 306], modified.

§ 308. Use of force in law enforcement.

(a) Subject to the provisions of this section and of 17 PNC Section 311, the use of force upon or toward the person of another is justifiable when the actor is making or assisting in making an arrest and the actor believes that such force is immediately necessary to effect a lawful arrest.

(b) The use of force is not justifiable under this section unless:

(1) the actor makes known the purpose of the arrest or believes that it is otherwise known by or cannot reasonably be made known to the person to be arrested; and

(2) when the arrest is made under a warrant, the warrant is valid or believed by the actor to be valid.

(c) The use of deadly force is not justifiable under this section unless:

(1) the arrest is for a felony; and

(2) the person effecting the arrest is authorized to act as a law enforcement officer or is assisting a person whom he or she believes to be authorized to act as a law enforcement officer; and

(3) the actor believes that the force employed creates no substantial risk of injury to innocent persons; and

(4) the actor believes that:

(A) the crimes for which the arrest is made involved conduct including the use or threatened use of deadly force; or

(B) there is a substantial risk that the person to be arrested will cause death or serious bodily injury if his or her apprehension is delayed.

(d) The use of force to prevent the escape of an arrested person from custody is justifiable when the force could justifiably have been employed to effect the arrest under which the person is in custody, except that a guard or other person authorized to act as a law enforcement officer is justified in using force that he or she believes to be immediately necessary to prevent the escape from a detention facility.

(e) A private person who is summoned by a law enforcement officer to assist in effecting an unlawful arrest is justified in using any force that he or she would be justified in using if the arrest were lawful, provided that he or she does not believe the arrest is unlawful. A private person who assists another private person in effecting an unlawful arrest, or who, not being summoned, assists a law enforcement officer in effecting an unlawful arrest, is justified in using any force that he or she would be justified in using if the arrest were lawful, provided that he or she believes the arrest is lawful, and the arrest would be lawful if the facts were as he or she believes them to be.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 3 § 307], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 309. Use of force to prevent suicide or the commission of a crime.

(a) The use of force upon or toward the person of another is justifiable when the actor believes that such force is immediately necessary to prevent the other person from committing suicide, inflicting serious bodily harm upon oneself, committing or consummating the commission of a crime involving or threatening bodily injury, damage to or loss of property, or breach of the peace, except that:

(1) any limitations imposed by the other provisions of this chapter on the justifiable use of force in self-protection, for the protection of others, the protection of property, the effectuation of an arrest, or the prevention of an escape from custody shall apply notwithstanding the criminality of the conduct against which such force is used; and

(2) the use of deadly force is not in any event justifiable under this section unless:

(A) the actor believes that there is a substantial risk that the person whom the actor seeks to prevent from committing a crime will cause death or serious bodily injury to another unless the commission or the consummation of the crime is prevented and that the use of such force presents no substantial risk of injury to innocent persons; or

(B) the actor believes that the use of such force is necessary to suppress a riot after the rioters have been ordered to disperse and warned, in any particular manner that the law may require, that deadly force will be used if they do not obey.

(b) The justification afforded by this section extends to the use of confinement as preventive force only if the actor takes all reasonable measures to terminate the confinement as soon as the actor knows that the actor safely can, unless the person confined has been arrested on a charge of crime.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 3 § 308], modified.

§ 310. Use of force by persons with special responsibility for care, discipline, or safety of others.

The use of force upon or toward the person of another is justifiable under the following circumstances:

(1) The actor is the parent or guardian or other person similarly responsible for the general care and supervision of a minor, or a person acting at the request of the parent, guardian, or other responsible person, and:

(A) the force is employed with due regard for the age and size of the minor and is reasonably related to the purpose of safeguarding or promoting the welfare of the minor, including the prevention or punishment of the minor's misconduct; and

(B) the force used is not designed to cause or known to create a risk of causing substantial bodily injury, disfigurement, extreme pain or mental distress, or neurological damage.

(2) The actor is a principal, the principal's agent, a teacher, or a person otherwise entrusted with the care or supervision for a special purpose of a minor, and:

(A) the actor believes that the force used is necessary to further that special purpose, including maintenance of reasonable discipline in a school, class, other group, or at activities supervised by the Ministry of Education held on or off school property and that the use of force is consistent with the welfare of the minor; and

(B) the degree of force, if it had been used by the parent or guardian of the minor, would not be unjustifiable under paragraph (1)(B) above.

(3) The actor is the guardian or other person similarly responsible for the general care and supervision of an incompetent person, and:

(A) the force is employed with due regard for the age and size of the incompetent person and is reasonably related to the purpose of safeguarding or promoting the welfare of the incompetent person, including the prevention of the incompetent person's misconduct, or, when such incompetent person is in a hospital or other institution for the incompetent person's care and custody, for the maintenance of reasonable discipline in the institution; and

(B) the force used is not designed to cause or known to create a risk of causing substantial bodily injury, disfigurement, extreme pain or mental distress, or neurological damage.

(4) The actor is a doctor or other therapist or a person assisting the doctor or therapist at the doctor's or therapist's direction, and:

(A) the force is used for the purpose of administering a recognized form of treatment that the actor believes to be adapted to promoting the physical or mental health of the patient; and

(B) the treatment is administered with the consent of the patient, or, if the patient is a minor or an incompetent person, with the consent of the minor's or incompetent person's parent or guardian or other person legally competent to consent in the minor's or incompetent person's behalf, or the treatment is administered in an emergency when the actor believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

(5) The actor is a warden or other authorized official of a correctional institution, and:

(A) the actor believes that the force used is necessary for the purpose of enforcing the lawful rules or procedures of the institution; and

(B) the nature or degree of force used is not forbidden by other provisions of the law governing the conduct of correctional institutions; and

(C) if deadly force is used, its use is otherwise justifiable under this chapter.

(6) The actor is a person responsible for the safety of a vessel or an aircraft or a person acting at the direction of the person responsible for the safety of a vessel or an aircraft, and:

(A) the actor believes that the force used is necessary to prevent interference with the operation of the vessel or aircraft or obstruction of the execution of a lawful order, unless the actor's belief in the lawfulness of the order is erroneous and the actor's error is due to ignorance or mistake as to the law defining authority; and

(B) if deadly force is used, its use is otherwise justifiable under this chapter.

(7) The actor is a person who is authorized or required by law to maintain order or decorum in a vehicle or other carrier, or in a place where others are assembled, and:

(A) the actor believes that the force used is necessary for that purpose; and

(B) the force used is not designed to cause or known to create a substantial risk of causing death, bodily injury or extreme mental distress.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 3 § 309], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 311. Provisions generally applicable to justification.

(a) When the actor believes that the use of force upon or toward the person of another is necessary for any of the purposes for which such belief would establish a justification under Sections 304 to 310 of this chapter, but the actor is reckless or negligent in having such belief or in acquiring or failing to acquire any knowledge or belief that is material to the justifiability of the actor's use of force, the justification afforded by those sections is unavailable in a prosecution for an offense for which recklessness or negligence, as the case may be, suffices to establish culpability.

(b) When the actor is justified under Sections 304 to 310 of this chapter in using force upon or toward the person of another but the actor recklessly or negligently injures or creates a risk of injury to innocent persons, the justification afforded by those sections is unavailable in a prosecution for such recklessness or negligence toward innocent persons.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 3 § 310], modified.

Notes
Sections referenced in this section has been renumbered to conform with the Code numbering format.

Chapter 4 — Executive Clemency

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 4 read §§ 400–410, which has been renumbered to §§ 401–411 to conform with the Style of the Code.

RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 400], modified, renumbers former Chapter 32 of Title 17 of the Palau National Code entitled "Executive Clemency" as Chapter 4 of Title 17 of the Palau National Code.

§ 401. Short title; purpose.

This chapter shall be known and may be cited as the "Executive Clemency Act". The purpose of this chapter is to set procedures by which the President may exercise his power pursuant to Article VIII, Section 7(5) of the Palau Constitution.

Section Notes

Sources
(Code 1966, § 435) 11 TTC § 1501.
RPPL 3-22 § 2 repeals former § 3201 and § 1, modified, adds section.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 400], modified, recodifies section from 17 PNC § 3201 to 17 PNC § 401.

Cross-reference
ROP Const. art. VIII § 7(5).

§ 402. Executive clemency.

The powers of presidential pardon, commutation, reprieve, and suspension and remission of fines and forfeitures are hereinafter referred to collectively as "executive clemency".

Section Notes

Sources
RPPL 3-22 § 3, modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 401], modified, recodifies section from 17 PNC § 3202 to 17 PNC § 402.

§ 403. Petition.

Any person who has been convicted of or entered a plea of guilty to any criminal offense in any court of the Republic, or in the Trust Territory High Court, Trial Division for the District of Palau, and who has been sentenced by the court, may petition the President for an executive pardon, commutation, reprieve, or for suspension and remission of fines and forfeitures. A petitioner for executive clemency shall, either himself or through counsel, prepare and submit to the Minister of Justice (the Minister) four copies of a petition for executive clemency. At a minimum, the petition must contain the following:

(1) petitioner's name and date of birth;

(2) a copy of the order of conviction and judgment;

(3) a copy of the petitioner's criminal record, showing the date and nature of any other convictions;

(4) a statement as to whether or not there are presently any criminal charges pending the against the petitioner;

(5) a statement of the reasons why the petitioner feels executive clemency is appropriate;

(6) the form of executive clemency requested;

(7) the dates and dispositions of any other petitions by the petitioner for executive clemency; and

(8) any other information or matters which the petitioner deems appropriate, including, but not limited to, letters of recommendation, employment history, and future plans of the petitioner.

Section Notes

Sources
RPPL 3-22 § 4, modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 402], modified, recodifies section from 17 PNC § 3203 to 17 PNC § 403.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 404. Ministerial review.

Upon receipt of the four copies of a petition, the Minister shall retain one, and shall send one to the Attorney General, one to the Director of the Bureau of Public Safety, and one to the Parole Board for their review and written recommendations. Each such recommendation shall be issued no later than sixty (60) days following the receipt by the Minister, the copies of the petition.

Section Notes

Sources
RPPL 3-22 §5, modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 403], modified, recodifies section from 17 PNC § 3204 to 17 PNC § 404.

§ 405. Report.

By no later than five days following the receipt by the Minister of all recommendations solicited pursuant to Section 404 of this chapter, the Minister shall prepare his own recommendation, and shall then transmit a copy of the petition, his recommendation, and the solicited recommendations to the President. Based on these documents, the President shall decide whether or not to grant executive clemency.

Section Notes

Sources
RPPL 3-22 § 6, modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 404], modified, recodifies section from 17 PNC § 3205 to 17 PNC § 405.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format.

§ 406. Clemency initiated by the President.

An exercise of executive clemency initiated by the President and not by a petitioner shall issue only after submission by the President to the Minister of a notice of intent to exercise such clemency. Such notice shall include the information specified in paragraphs (1), (2), (3), (4), (5), (6), and (7) of Section 403 of this chapter. The information shall be reviewed and recommendations shall be made in accordance with the procedures set forth in Sections 404 and 405 of this chapter. Such form of executive clemency may be exercised only subsequent to a conviction or guilty plea as set forth in Section 403 of this chapter.

Section Notes

Sources
RPPL 3-22 § 7, modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 405], modified, recodifies section from 17 PNC § 3206 to 17 PNC § 406.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 407. Issuance of clemency.

The President shall, within thirty (30) days of the receipt of petition documents from the Minister of Justice, decide whether to exercise executive clemency. Should he decline to grant clemency, he shall notify the petitioner in writing of such decision. If the President decides to exercise executive clemency, he shall do so through issuance of an order of pardon, which shall state the following:

(1) petitioner's name;

(2) date of conviction; and

(3) nature of executive clemency granted.

Section Notes

Sources
RPPL 3-22 § 8, modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 406], modified, recodifies section from 17 PNC § 3207 to 17 PNC § 407.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Supreme Court Cases
Galo v. Bank of Hawaii, 2019 Palau 1 ¶ 13 (App. Div.).

§ 408. Transmittal.

Each order of pardon shall be sent to:

(1) the court in which the conviction occurred, or in which the petitioner pled guilty to the crime for which he was granted clemency, for placement in the case file;

(2) the Attorney General, for notations to criminal records;

(3) the Director of the Bureau of Public Safety, for notations to criminal records; and

(4) the presiding officers of the Olbiil Era Kelulau.

Section Notes

Sources
RPPL 3-22 § 9, modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 407], modified, recodifies section from 17 PNC § 3208 to 17 PNC § 408.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 409. Inquiries.

After the exercise of executive clemency, inquiries to the court in which a petitioner or pardoned person's conviction occurred, to the Attorney General, or to the Director of the Bureau of Public Safety concerning the criminal record of the petitioner or pardoned person will be answered only after the notations to petitioner's or pardoned persons record reflecting the order of pardon have been made. Responses to such inquiries shall include reference to the conviction or guilty plea of the petitioner or pardoned person regarding the crime for which the order of pardon was issued.

Section Notes

Sources
RPPL 3-22 § 10, modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 408], modified, recodifies section from 17 PNC § 3209 to 17 PNC § 409.

§ 410. Public record.

Subsequent to the President's decision regarding any petition for or grant of executive clemency, a copy of each document submitted as part of or regarding such petition or grant shall be transmitted to the Office of the Attorney General and shall be available upon request for public inspection.

Section Notes

Sources
RPPL 3-22 § 11, modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 409], modified, recodifies section from 17 PNC § 3210 to 17 PNC § 410.

§ 411. Severability.

If any provision of this chapter is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and applicability of such provision to other persons and circumstances shall not be affected thereby, and to this extent the provisions of this chapter are deemed severable.

Section Notes

Sources
RPPL 3-22 § 12, modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 4 § 410], modified, recodifies section from 17 PNC § 3211 to 17 PNC § 411.

Chapter 5 — Penal Responsibility and Fitness to Proceed

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 5 read §§ 500–518, which has been renumbered to §§ 501–519 to conform with the Style of the Code.

§ 501. Physical or mental disease, disorder, or defect excluding penal responsibility.

(a) A person is not responsible, under this Penal Code, for conduct if at the time of the conduct as a result of physical or mental disease, disorder, or defect the person lacks substantial capacity either to appreciate the wrongfulness of the person's conduct or to conform the person's conduct to the requirements of law.

(b) As used in this chapter, the terms "physical or mental disease, disorder, or defect" do not include an abnormality manifested only by repeated penal or otherwise anti-social conduct.

Section Notes

Sources
RPPL 9-21 § 3 repeals former section § 501 and § 5 [Chapter 5 § 500], modified, adds section.

Supreme Court Cases
Roll'em Prods. v. Diaz, 22 ROP 229, 235 (Tr. Div. 2015)

§ 502. Evidence of physical or mental disease, disorder, or defect admissible when relevant to state of mind.

Evidence that the defendant was affected by a physical or mental disease, disorder, or defect is admissible whenever it is relevant to prove that the defendant did or did not have a state of mind that is required to establish an element of the offense.

Section Notes

Sources
RPPL 9-21 § 3 repeals former section § 501 and § 5 [Chapter 5 § 501], modified, adds section.

§ 503. Physical or mental disease, disorder, or defect excluding responsibility is an affirmative defense; form of verdict and judgment when finding of irresponsibility is made.

(a) Physical or mental disease, disorder, or defect excluding responsibility is an affirmative defense.

(b) When the defense provided for by subsection (a) is submitted to the finder of fact, the court shall, in the case of a jury trial, and if requested by the defendant, instruct the jury as to the consequences to the defendant of an acquittal on the ground of physical or mental disease, disorder, or defect excluding responsibility.

(c) When the defendant is acquitted on the ground of physical or mental disease, disorder, or defect excluding responsibility, the verdict and the judgment shall so state.

Section Notes

Sources
RPPL 9-21 § 3 repeals former section § 501 and § 5 [Chapter 5 § 502], modified, adds section.

§ 504. Physical or mental disease, disorder, or defect excluding fitness to proceed.

No person who as a result of a physical or mental disease, disorder, or defect lacks capacity to understand the proceedings against the person or to assist in the person's own defense shall be tried, convicted, or sentenced for the commission of an offense so long as such incapacity endures.

Section Notes

Sources
RPPL 9-21 § 3 repeals former section § 501 and § 5 [Chapter 5 § 503], modified, adds section.

§ 505. Examination of defendant with respect to physical or mental disease, disorder, or defect.

(a) Whenever the defendant has filed a notice of intention to rely on the defense of physical or mental disease, disorder, or defect excluding responsibility, or there is reason to doubt the defendant's fitness to proceed, or reason to believe that the physical or mental disease, disorder, or defect of the defendant will or has become an issue in the case, the court may immediately suspend all further proceedings in the prosecution. If a trial jury has been empanelled, it shall be discharged or retained at the discretion of the court. The discharge of the trial jury shall not be a bar to further prosecution.

(b) Upon suspension of further proceedings in the prosecution, the court shall appoint a qualified psychiatrist or psychologist to examine and report upon the physical and mental condition of the defendant. The examiner shall be appointed from a list of certified examiners as determined by the Ministry of Health and Human Services. The court, in appropriate circumstances, may appoint an additional examiner or examiners. The examination may be conducted on an out-patient basis or, in the court's discretion, when necessary the court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or such longer period as the court determines to be necessary for the purpose. The court may direct that one or more qualified physicians or psychologists retained by the defendant be permitted to witness the examination.

(c) An examination performed under this section may employ any method that is accepted by the professions of medicine or psychology for the examination of those alleged to be affected by a physical or mental disease, disorder, or defect. If more than one examiner is appointed, each examiner shall form and render diagnoses and opinions upon the physical and mental condition of the defendant independently from the other examiners. The examiner(s), upon approval of the court, may secure the services of clinical psychologists and other medical or paramedical specialists to assist in the examination and diagnosis.

(d) The report of the examination shall include the following:
    (1) a description of the nature of the examination;
    (2) a diagnosis of the physical or mental condition of the defendant;
    (3) an opinion as to the defendant's capacity to understand the proceedings against the defendant and to assist in the defendant's own defense;
    (4) an opinion as to the extent, if any, to which the capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was impaired at the time of the conduct alleged;

(5) when directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind that is required to establish an element of the offense charged; and

(6) where more than one examiner is appointed, a statement that the diagnosis and opinion rendered were arrived at independently of any other examiner, unless there is a showing to the court of a clear need for communication between or among the examiners for clarification. A description of the communication shall be included in the report. After all reports are submitted to the court, examiners may confer without restriction.

(e) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of physical or mental disease, disorder, or defect.

(f) Three copies of the report of the examination, including any supporting documents, shall be filed with the Clerk of the Court, who shall cause copies to be delivered to the Office of the Attorney General and to counsel for the defendant.

(g) Any examiner shall be permitted to make a separate explanation reasonably serving to clarify the examiner's diagnosis or opinion.

(h) The court shall obtain all existing medical, mental health, social, police, and juvenile records, including those expunged, and other pertinent records in the custody of public agencies, notwithstanding any other statutes, and make such records available for inspection by the examiners. If, pursuant to this section, the court orders the defendant committed to a hospital or other suitable facility under the control of the Ministry of Health and Human Services, then the Bureau of Public Safety shall provide to the Ministry of Health and Human Services and the defendant copies of all police reports from cases filed against the defendant that have been adjudicated by the acceptance of a plea of guilty or no contest, a finding of guilt, acquittal, acquittal pursuant to 17 PNC Section 501, or by the entry of a plea of guilty or no contest made pursuant to Subchapter I of Chapter 6 of this Penal Code, so long as the disclosure to the Minister of Health and Human Services and the defendant does not frustrate a legitimate function of the Bureau of Public Safety, with the exception of expunged records, records of or pertaining to any adjudication or disposition rendered in the case of a juvenile. The Bureau of Public Safety shall redact from the police reports information that would result in the likelihood or actual identification of individuals who furnished information in connection with its investigation, or who were of investigatory interest. Records shall not be further disseminated except to the extent permitted by law.

(i) The compensation of persons making or assisting in the examination, other than those retained by the non-indigent defendant, who are not undertaking the examination through the Ministry of Health and Human Services as part of the examiner's normal duties as an employee of the Republic of Palau, shall be paid by the Republic of Palau.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 504], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format. "Subchapter I" in subsection (h) replaced the words "Part I" in the original legislation per Code Commission.

§ 506. Determination of fitness to proceed.

When the defendant's fitness to proceed is drawn into question, the issue shall be determined by the court. If neither the Attorney General nor counsel for the defendant contests the finding of the report filed pursuant to 17 PNC Section 505, the court may make the determination on the basis of such report. If the finding is contested, the court shall hold a hearing on the issue. When the report is received in evidence upon such hearing, the party who contests the finding thereof shall have the right to summon and to cross-examine the persons who joined in the report or assisted in the examination and to offer evidence upon the issue.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 505], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format.

§ 507. Effect of finding of unfitness to proceed.

(a) If the court determines that the defendant lacks fitness to proceed, the proceeding against the defendant shall be suspended, except as provided in 17 PNC Section 508, and the court shall commit the defendant to the custody of the Minister of Health and Human Services to be placed in an appropriate institution for detention, care, and treatment; provided that the commitment shall be limited in certain cases as follows:
    (1) when the defendant is charged with a petty misdemeanor not involving violence or attempted violence, the commitment shall be limited to no longer than sixty (60) days from the date the court determines the defendant lacks fitness to proceed; and
    (2) when the defendant is charged with a misdemeanor not involving violence or attempted violence, the commitment shall be limited to no longer than one hundred twenty (120) days from the date the court determines the defendant lacks fitness to proceed.

(b) If the court is satisfied that the defendant may be released on conditions without danger to the defendant or to the person or property of others, the court shall order the defendant's release, which shall continue at the discretion of the court, on conditions the court determines necessary; provided that the release on conditions of a defendant charged with a petty misdemeanor not involving violence or attempted violence shall continue for no longer than sixty (60) days, and the release on conditions of a defendant charged with a misdemeanor not involving violence or attempted violence shall continue for no longer than one hundred twenty (120) days. A copy of the report filed pursuant to 17 PNC Section 505 shall be attached to the order of commitment or order of release on conditions. When the defendant is committed to the custody of the Minister of Health and Human Services for detention, care, and treatment, the Bureau of Public Safety shall provide to the Minister of Health and Human Services and

the defendant copies of all police reports from cases filed against the defendant that have been adjudicated by the acceptance of a plea of guilty or no contest, a finding of guilt, acquittal, acquittal pursuant to 17 PNC Section 501, or by the entry of a plea of guilty or no contest made pursuant to Subchapter I of Chapter 6 of this Penal Code, so long as the disclosure to the Minister of Health and Human Services and the defendant does not frustrate a legitimate function of the Bureau of Public Safety; provided that expunged records and records of or pertaining to any adjudication or disposition rendered in the case of a juvenile shall not be provided. The Bureau of Public Safety shall redact from the police reports information that would result in the likely or actual identification of individuals who furnished information in connection with the investigation or who were of investigatory interest. Records shall not be further disseminated except to the extent permitted by law.

(c) When the defendant is released on conditions after a finding of unfitness to proceed, the Minister of Health and Human Services shall establish and monitor a fitness restoration program consistent with conditions set by the court order of release, and shall inform the Attorney General that charged the defendant of the program and report the defendant's compliance therewith.

(d) When the court, on its own motion or upon the application of the Minister of Health and Human Services, the Attorney General, or the defendant, determines, after a hearing if a hearing is requested, that the defendant has regained fitness to proceed, the penal proceeding shall be resumed. If, however, the court is of the view that so much time has elapsed since the commitment or release on conditions of the defendant that it would be unjust to resume the proceeding, the court may dismiss the charge and:

(1) order the defendant to be discharged; or

(2) pursuant to 34 PNC Chapter 5, order the defendant to be committed to the custody of the Minister of Health and Human Services to be placed in an appropriate institution for detention, care, and treatment, or order the defendant to be released on conditions the court determines necessary.

(e) If a defendant committed to the custody of the Minister of Health and Human Services for a limited period pursuant to subsection (a) is not found fit to proceed prior to the expiration of the commitment, the charge for which the defendant was committed for a limited period shall be dismissed. Upon dismissal of the charge, the defendant shall be released from custody unless the defendant is subject to prosecution for other charges, in which case, unless the defendant is subject to the law governing involuntary civil commitment, the court shall order the defendant's commitment to the custody of the Minister of Health and Human Services to be placed in an appropriate institution for detention, care, and treatment. Within a reasonable time following any other commitment under subsection (a), the Minister of Health and Human Services shall report to the court on whether the defendant presents a substantial likelihood of becoming fit to proceed in the future. The court, in addition, may appoint a qualified examiner to make a report. If, following a report, the court determines that the defendant probably will remain unfit to proceed, the court may dismiss the charge and:

(1) release the defendant; or

(2) pursuant to 34 PNC Chapter 5, order the defendant to be committed to the custody of the Minister of Health and Human Services to be placed in an appropriate institution for detention, care, and treatment.

(f) If a defendant released on conditions for a limited period pursuant to subsection (a) is not found fit to proceed prior to the expiration of the release on conditions order, the charge for which the defendant was released on conditions for a limited period shall be dismissed. Upon dismissal of the charge, the defendant shall be discharged from the release on conditions unless the defendant is subject to prosecution for other charges or subject to the law governing involuntary civil commitment, in which case the court shall order the defendant's commitment to the custody of the Minister of Health and Human Services to be placed in an appropriate institution for detention, care, and treatment. Within a reasonable time following any other release on conditions under subsection (a), the court shall appoint a qualified examiner to report to the court on whether the defendant presents a substantial likelihood of becoming fit to proceed in the future. If, following the report, the court determines that the defendant probably will remain unfit to proceed, the court may dismiss the charge and:

(1) release the defendant; or

(2) pursuant to 34 PNC Chapter 5, order the defendant to be committed to the custody of the Minister of Health and Human Services to be placed in an appropriate institution for detention, care, and treatment.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 506], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. "Subchapter I" in subsection (b) replaced the words "Part I" in the original legislation per Code Commission.

§ 508. Special hearing following commitment or release on conditions.

(a) At any time after commitment as provided in 17 PNC Section 507, the defendant or the defendant's counsel or the Minister of Health and Human Services may apply for a special post-commitment or post-release hearing. If the application is made by or on behalf of a defendant not represented by counsel, the defendant shall be afforded a reasonable opportunity to obtain counsel, and if the defendant lacks funds to do so, counsel shall be assigned by the court. The application shall be granted only if the counsel for the defendant satisfies the court by affidavit or otherwise that, as an attorney, the counsel has reasonable grounds for a good faith belief that the counsel's client has an objection based upon legal grounds to the charge.

(b) If the motion for a special post-commitment or post-release hearing is granted, the hearing shall be by the court without a jury. No evidence shall be offered at the hearing by either party on the issue of physical or mental disease, disorder, or defect as a defense to, or in mitigation of, the offense charged.

(c) After the hearing, the court shall rule on any legal objection raised by the application and, in an appropriate case, may quash the information or other charge, find it to be defective or insufficient, or otherwise terminate the proceedings on the law. In any such case, unless all defects in the proceedings are promptly cured, the court shall terminate the commitment or release ordered under Section 507 and:

(1) order the defendant to be discharged;

(2) pursuant to 34 PNC Chapter 5, order the defendant to be committed to the custody of the Minister of Health and Human Services to be placed in an appropriate institution for detention, care, and treatment, or order the defendant to be released on such conditions as the court deems necessary.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 507], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format.

§ 509. Determination of irresponsibility.

If the report of the examiner(s) filed pursuant to 17 PNC Section 505, or the report of examiner(s) of the defendant's choice under 17 PNC Section 510, states that the defendant at the time of the conduct alleged was affected by a physical or mental disease, disorder, or defect that substantially impaired the defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law, the court shall submit the defense of physical or mental disease, disorder, or defect to the trier of fact or the jury at the trial of the charge against the defendant.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 508], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 510. Access to defendant by examiners of defendant's choice.

When, notwithstanding the report filed pursuant to 17 PNC Section 505, the defendant wishes to be examined by one or more qualified physicians or other experts of the defendant's own choice and expense, such examiner(s) shall be permitted to have reasonable access to the defendant for the purposes of such examination.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 509], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format.

§ 511. Form of expert testimony regarding physical or mental disease, disorder, or defect.

(a) At the hearing pursuant to 17 PNC Section 506 or upon the trial, the examiner(s) who reported pursuant to 17 PNC Section 505 may be called as witnesses by the Attorney General, the defendant, or the court. If the issue is being tried before a jury, the jury may be informed that the examiner(s) or any of them were designated by the court or by the Minister of Health and Human Services at the request of the court, as the case may be. If called by the court, the

witness shall be subject to cross-examination by the Attorney General and the defendant. Both the Attorney General and the defendant may summon any other qualified physician or licensed psychologist or other expert to testify, but no one who has not examined the defendant shall be competent to testify to an expert opinion with respect to the physical or mental condition of the defendant, as distinguished from the validity of the procedure followed by, or the general scientific propositions stated by, another witness.

(b) When an examiner testifies on the issue of the defendant's fitness to proceed, the examiner shall be permitted to make a statement as to the nature of the examiner's examination, the examiner's diagnosis of the physical or mental condition of the defendant, and the examiner's opinion of the extent, if any, to which the capacity of the defendant to understand the proceedings against the defendant or to assist in the defendant's own defense is impaired as a result of physical or mental disease, disorder, or defect.

(c) When an examiner testifies on the issue of the defendant's responsibility for conduct alleged or the issue of the defendant's capacity to have a particular state of mind that is necessary to establish an element of the offense charged, the examiner shall be permitted to make a statement as to the nature of the examiner's examination, the examiner's diagnosis of the physical or mental condition of the defendant at the time of the conduct alleged, and the examiner's opinion of the extent, if any, to which the capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law or to have a particular state of mind that is necessary to establish an element of the offense charged was impaired as a result of physical or mental disease, disorder, or defect at that time.

(d) When an examiner testifies, the examiner shall be permitted to make any explanation reasonably serving to clarify the examiner's diagnosis and opinion and may be cross-examined as to any matter bearing on the examiner's competency or credibility or the validity of the examiner's diagnosis or opinion.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 510], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 512. Legal effect of acquittal on the ground of physical or mental disease, disorder, or defect excluding responsibility; commitment; conditional release; discharge; procedure for separate post-acquittal hearing.

(a) When a defendant is acquitted on the ground of physical or mental disease, disorder, or defect excluding responsibility, the court, on the basis of the report made pursuant to 17 PNC Section 505, if uncontested, or the medical or psychological evidence given at the trial or at a separate hearing, shall order that:

(1) the defendant shall be committed to the custody of the Minister of Health and Human Services to be placed in an appropriate institution for custody, care, and treatment if the court finds that the defendant:

(A) is affected by a physical or mental disease, disorder, or defect;

(B) presents a risk of danger to self or others; and

(C) is not a proper subject for conditional release;

(2) the Bureau of Public Safety shall provide to the Minister of Health and Human Services and the defendant copies of all police reports from cases filed against the defendant that have been adjudicated by the acceptance of a plea of guilty or no contest, a finding of guilt, acquittal, acquittal pursuant to 17 PNC Section 501, or by the entry of a plea of guilty or no contest made pursuant to Subchapter I of 17 PNC Chapter 6 of this Penal Code, so long as the disclosure to the Minister of Health and Human Services and the defendant does not frustrate a legitimate function of the Bureau of Public Safety; provided that expunged records or records of or pertaining to any adjudication or disposition rendered in the case of a juvenile shall not be provided. The Bureau of Public Safety shall redact from the police reports information that would result in the likelihood or actual identification of individuals who furnished information in connection with the investigation or who were of investigatory interest. Records shall not be further disseminated except to the extent permitted by law;

(3) the defendant shall be granted conditional release with conditions as the court deems necessary if the court finds that the defendant is affected by physical or mental disease, disorder, or defect and that the defendant presents a danger to self or others, but that the defendant can be controlled adequately and given proper care, supervision, and treatment if the defendant is released on condition. For any defendant granted conditional release pursuant to this paragraph, and who was charged with a petty misdemeanor or misdemeanor, the period of conditional release shall be no longer than one year; or

(4) the defendant shall be discharged if the court finds that the defendant is no longer affected by physical or mental disease, disorder, or defect or, if so affected, that the defendant no longer presents a danger to self or others and is not in need of care, supervision, or treatment.

(b) The court, upon its own motion or on the motion of the Attorney General or the defendant, shall order a separate post-acquittal hearing for the purpose of taking evidence on the issue of physical or mental disease, disorder, or defect and the risk of danger that the defendant presents to self or others.

(c) When ordering a hearing pursuant to subsection (b):

(1) The court shall appoint a qualified psychiatrist or psychologist to examine and report upon the physical and mental condition of the defendant. The examiner shall be appointed from a list of certified examiners as determined by the Ministry of Health and Human Services. The court, in appropriate circumstances, may appoint an additional examiner or examiners. The examination may be conducted on an out-patient basis or, in the court's discretion, when necessary the court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or such longer period as the court determines to be necessary for the purpose. The court may direct that one or more qualified physicians or psychologists retained by the defendant be permitted to witness the examination.

(d) Whether the court's order under subsection (a) is made on the basis of the medical or psychological evidence given at the trial, or on the basis of the report made pursuant to 17 PNC Section 505, or the medical or psychological evidence given at a separate hearing, the burden shall be upon the Republic of Palau to prove, by a preponderance of the evidence, that the defendant is affected by a physical or mental disease, disorder, or defect and may not safely be discharged and that the defendant should be either committed or conditionally released as provided in subsection (a).

(e) In any proceeding governed by this section, the defendant's fitness shall not be an issue.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 511], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

"Subchapter I" in subsection (a)(2) replaced the words "Part I" in the original legislation.

§ 513. Committed person; application for conditional release or discharge; by the Minister of Health and Human Services; by the person.

(a) After the expiration of at least ninety days following an original order of commitment pursuant to 17 PNC Section 512(a)(1), or after the expiration of at least sixty days following the revocation of conditional release pursuant to 17 PNC Section 514, if the Minister of Health and Human Services is of the opinion that the person committed is still affected by a physical or mental disease, disorder, or defect and may be granted conditional release or discharged without danger to self or to the person or property of others or that the person is no longer affected by a physical or mental disease, disorder, or defect, the Minister of Health and Human Services shall make an application for either the conditional release or discharge of the person, as appropriate. In such a case, the Minister of Health and Human Services shall submit a report to the court by which the person was ordered committed and shall transmit copies of the application and report to the Attorney General.

(b) After the expiration of ninety days from the date of the order of commitment pursuant to 17 PNC Section 512, or after the expiration of sixty days following the revocation of conditional release pursuant to 17 PNC Section 514, the person committed may apply to the court from which the person was committed for an order of discharge upon the ground that the person is no longer affected by a physical or mental disease, disorder, or defect. The person committed may apply for conditional release or discharge upon the ground that, though still affected by a physical or mental disease, disorder, or defect, the person may be released without danger to self or to the person or property of others. A copy of the application shall be transmitted to the Attorney General. If the court denies the application, the person shall not be permitted to file another application for either conditional release or discharge until one year after the date of the hearing held on the immediate prior application.

(c) Upon application to the court by either the Minister of Health and Human Services or the person committed, the court shall complete the hearing process and render a decision within sixty (60) days of the application; provided that for good cause the court may extend the sixty-

day time frame upon the request of the Minister of Health and Human Services or the person committed.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 512], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 514. Conditional release; application for modification or discharge; termination of conditional release and commitment.

(a) Any person granted conditional release pursuant to this chapter shall continue to receive mental health or other treatment and care deemed appropriate by the Minister of Health and Human Services until discharged from conditional release. The person shall follow all prescribed treatments and take all prescribed medications according to the instructions of the person's treating mental health professional. If a mental health professional who is treating a person granted conditional release believes that either the person is not complying with the requirements of this section or there is other evidence that hospitalization is appropriate, the mental health professional shall report the matter to the court that granted conditional release. The court may order the person granted conditional release to be hospitalized pursuant to 34 PNC Chapter 5, Subchapter III, for a period not to exceed seventy-two hours if the court has probable cause to believe the person has violated the requirements of this subsection. No person shall be hospitalized beyond the seventy-two-hour period, unless a hearing has been held pursuant to subsection (d); provided that on or before the expiration of the seventy-two-hour period, the court may conduct a hearing to determine whether the person would benefit from further hospitalization, which may render a revocation of conditional release unnecessary. If satisfied, the court may order further temporary hospitalization for a period not to exceed ninety days, subject to extension as appropriate, but in no event for a period longer than one year. At any time within that period, the court may determine that a hearing pursuant to subsection (d) should be conducted.

(b) The Minister of Health and Human Services may apply to the court ordering any person released pursuant to this chapter, for the person's discharge from, or modification of, the order granting conditional release; provided that the person receives mental health services from or contracted by the Ministry of Health and Human Services, and the Minister of Health and Human Services is of the opinion that the person on conditional release is no longer affected by a physical or mental disease, disorder, or defect and may be discharged, or the order may be modified, without danger to the person or to others. The Minister of Health and Human Services shall make an application for the discharge from, or modification of, the order of conditional release in a report to the court from which the order was issued. The Minister of Health and Human Services shall transmit a copy of the application and report to the Attorney General, to the person's treating mental health professionals, and to the probation officer supervising the conditional release. The person on conditional release shall be given notice of the application.

(c) Any person granted conditional release pursuant to this chapter may apply to the court ordering the conditional release for discharge from, or modification of, the order granting conditional

release on the ground that the person is no longer affected by a physical or mental disease, disorder, or defect and may be discharged, or the order may be modified, without danger to the person or to others. The application shall be accompanied by a letter from or supporting affidavit of a qualified physician or licensed psychologist. A copy of the application and letter or affidavit shall be transmitted to the Attorney General and to any persons supervising the release, and the hearing on the application shall be held following notice to such persons. If the court denies the application, the person shall not be permitted to file another application for either discharge or modification of conditional release until one year after the date of the denial.

(d) If, at any time after the order pursuant to this chapter granting conditional release, the court determines, after hearing evidence, that:

(1) the person is still affected by a physical or mental disease, disorder, or defect, and the conditions of release have not been fulfilled; or

(2) for the safety of the person or others, the person's conditional release should be revoked, the court may forthwith modify the conditions of release or order the person to be committed to the custody of the Ministry of Health and Human Services, subject to discharge or release in accordance with the procedure prescribed in 17 PNC Section 513.

(e) Upon application for discharge from, or modification of, the order of conditional release by either the Minister of Health and Human Services or the person, the court shall complete the hearing process and render a decision within sixty days of the application, provided that for good cause the court may extend the sixty (60) day time frame upon the request of the Minister of Health and Human Services or the person.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 513], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format.

§ 515. Procedure upon application for discharge, conditional release, or modification of conditions of release.

Upon filing of an application pursuant to 17 PNC Section 513 for discharge or conditional release, or upon the filing of an application pursuant to 17 PNC Section 514 for discharge or for modification of conditions of release, the court shall appoint a qualified examiner to examine and report upon the physical and mental condition of the defendant. The examiner shall be appointed from a list of certified examiners as determined by the Ministry of Health and Human Services. The court, in appropriate circumstances, may appoint an additional examiner or examiners. To facilitate the examination and the proceedings thereon, the court may cause the defendant, if not then confined, to be committed to a hospital or other suitable facility for the purpose of the examination and may direct that qualified physicians or psychologists retained by the defendant be permitted to witness the examination. The examination and report and the compensation of the person making or assisting in the examination shall be in accord with 17 PNC Sections 505(c), (d)(1) and (2), (f), (g), (h), and (i).

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 514], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 516. Disposition of application for discharge, conditional release, or modification of conditions of release.

(a) If the court is satisfied from the report filed pursuant to 17 PNC Section 515, and such testimony of the reporting examiner(s) as the court deems necessary, that:

(1) the person is affected by a physical or mental disease, disorder, or defect and the discharge, conditional release, or modification of conditions of release applied for may be granted without danger to the committed or conditionally released person or to the person or property of others; or

(2) the person is no longer affected by a physical or mental disease, disorder, or defect, the court shall grant the application and order the relief. If the court is not so satisfied, it shall promptly order a hearing.

(b) Any such hearing shall be deemed a civil proceeding and the burden shall be upon the applicant to prove that the person is no longer affected by a physical or mental disease, disorder, or defect or may safely be either released on the conditions applied for or discharged. According to the determination of the court upon the hearing, the person shall be:

(1) discharged;

(2) released on such conditions as the court determines to be necessary; or

(3) recommitted to the custody of the Minister of Health and Human Services, subject to discharge or release only in accordance with the procedure prescribed in 17 PNC Section 513.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 515], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 517. Statements for purposes of examination or treatment inadmissible except on issue of physical or mental condition.

A statement made by a person subjected to examination or treatment pursuant to this chapter for the purposes of such examination or treatment shall not be admissible in evidence against the person in any penal proceeding on any issue other than that of the person’s physical or mental condition, but it shall be admissible upon that issue, whether or not it would otherwise be deemed a privileged communication, unless such statement constitutes an admission of guilt of the offense charged.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 516], modified.

§ 518. Supervision of person on conditional release.

(a) Any person hospitalized under this chapter who is subsequently placed on conditional release shall be subject to the supervision of a probation officer until such time as that supervision is terminated by order of the court.

(b) The probation officer shall report, as the court may order, whether the conditionally released person is complying with the conditions of the release.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 517], modified.

§ 519. Use of out-of-state institutions.

The term "appropriate institution" includes any institution within or without the Republic of Palau to which the defendant may be eligible for admission and treatment for physical or mental disease, disorder, or defect.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 5 § 518], modified.

Chapter 6 — Disposition of Convicted Defendants

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 6 read §§ 600–670, which has been renumbered to §§ 601–671 to conform with the Style of the Code.

In RPPL 9-21 this chapter contained "Parts I to V". The Code Commission renamed "Parts I to V" to read "Subchapters I to V" to conform with the Style of the Code.

Supreme Court Cases
Siksei v. Ngiraked, 2018 Palau 7 ¶ 7 (App. Div.).

Subchapter I — Deferred Acceptance of Guilty Plea, No Contest Plea

§ 601. Deferred acceptance of guilty plea or no contest plea; discharge and dismissal, expungement of records.

(a) Upon proper motion as provided by this chapter:
   (1) when a defendant voluntarily pleads guilty or no contest, prior to commencement of trial, to a felony, misdemeanor, or petty misdemeanor;
   (2) it appears to the court that the defendant is not likely again to engage in a criminal course of conduct; and
   (3) the ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by law, the court, without accepting the plea of no contest or entering a judgment of guilt and with the consent of the defendant and after considering the recommendations, if any, of the Attorney General, may defer further proceedings.

(b) The proceedings may be deferred upon any of the conditions specified by 17 PNC Section 635. The court may defer the proceedings for a period of time as the court shall direct but in no case to exceed the maximum sentence allowable; provided that, if the defendant has entered a plea of guilty or no contest to a petty misdemeanor, the court may defer the proceedings for a period not to exceed one year. The defendant may be subject to bail or recognizance at the court's discretion during the period during which the proceedings are deferred.

(c) Upon the defendant's completion of the period designated by the court and in compliance with the terms and conditions established, the court shall discharge the defendant and dismiss the charge against the defendant.

(d) Discharge of the defendant and dismissal of the charge against the defendant under this section shall be without adjudication of guilt, shall eliminate any civil admission of guilt, and is not a conviction.

(e) Upon discharge of the defendant and dismissal of the charge against the defendant under this section, the defendant may apply for expungement not less than one year following discharge.

(f) Upon meeting the requirements set forth above, such person may apply to the court for an order to expunge from all official records, other than the non-public records to be retained by

the court solely for use by the courts in determining whether or not in subsequent proceedings such person qualifies under this section, all recordation relating to the persons arrest, filing of charges, plea of guilty or no contest, dismissal and the proceedings against him or her have been discharged, the court shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he or she occupied before such arrest or filing of charges. No person as to whom such order has been entered shall be held thereafter under any provisions of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest or filing of charges in response to any inquiry made of him or her for any purpose.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 601. and § 5 [Chapter 6 § 600], modified, adds section.

Notes
The section referenced in this section has been renumbered to conform with the Code numbering format.

Supreme Court Cases
Republic of Palau v. Ngarchelong State Gov't., 2019 Palau 5 ¶ 8 (App. Div.).

§ 602. Plea of guilty or no contest; procedure.

Upon motion made before sentence by the defendant, the Attorney General, or on its own motion, the court will either proceed in accordance with 17 PNC Section 601, or deny the motion and accept the defendant's plea of guilty or no contest, or allow the defendant to withdraw the defendant's plea of guilty or no contest, only however, upon finding of good cause.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 601], modified.

Supreme Court Cases
Republic of Palau v. Ngarchelong State Gov't., 2019 Palau 5 ¶ 8 (App. Div.).

§ 603. Violation of terms and conditions during deferment; result.

Upon violation of a term or condition set by the court for a deferred acceptance of guilty plea or deferred acceptance of no contest plea, the court may enter an adjudication of guilt and proceed as otherwise provided.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 602], modified.

Supreme Court Cases
Republic of Palau v. Ngarchelong State Gov't., 2019 Palau 5 ¶ 8 (App. Div.).

§ 604. Chapter not applicable; when.

(a) This chapter shall not apply when:

(1) the offense charged involves the intentional, knowing, reckless, or negligent killing of another person;

(2) the offense charged is:
  (A) a felony that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person; or
  (B) a misdemeanor or petty misdemeanor involving the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person;

(3) the offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;

(4) the offense charged is a class A felony;

(5) the offense charged is non-probationable;

(6) the defendant has been convicted of any offense defined as a felony by this Penal Code or other statute within the Palau National Code or has been convicted for any conduct that if perpetrated in the Republic of Palau would be punishable as a felony;

(7) the defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by this Penal Code or other statute within the Palau National Code or for any conduct that if perpetrated in the Republic of Palau would constitute a felony;

(8) the defendant has a prior conviction for a felony committed in any foreign jurisdiction;

(9) a firearm was used in the commission of the offense charged;

(10) the defendant is charged with the distribution of a controlled substance to a minor;

(11) the defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea or deferred acceptance of no contest plea status for a prior offense, regardless of whether the period of deferral has already expired;

(12) the defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea or deferred acceptance of no contest plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;

(13) the offense charged is:
  (A) escape in the first degree;
  (B) escape in the second degree;
  (C) promoting prison contraband in the first degree;
  (D) promoting prison contraband in the second degree;
  (E) bail jumping in the first degree;
  (F) bail jumping in the second degree;
  (G) bribery;
  (H) bribery of or by a witness;
  (I) intimidating a witness;
  (J) bribery of or by a juror;
  (K) intimidating a juror;
  (L) jury tampering;
  (M) promoting prostitution in the first degree;

(N) promoting prostitution in the second degree;
(O) abuse of family or household members;
(P) sexual assault in the second degree;
(Q) sexual assault in the third degree;
(R) a violation of a temporary restraining order or protective order;
(S) promoting child exploitation in the second degree;
(T) promoting child exploitation in the third degree;
(U) electronic enticement of a child in the first degree;
(V) electronic enticement of a child in the second degree;
(W) human smuggling;
(X) aggravated human smuggling;
(Y) [travel document fraud];
(Z) human trafficking;
(AA) aggravated human trafficking;
(AB) trafficking in children;
(AC) aggravated trafficking in children;
(AD) exploiting a trafficked person; or
(AE) exploiting a trafficked child.

(b) The court may identify by rule other offenses for which this chapter is not applicable.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 603], modified.
RPPL 11-28 § 6, modified, amended paragraphs (13)(U) and (13)(V) and added paragraphs (13)(W) through (13)(AE).

Notes
The Code Commission replaced "fraudulent passport, travel, and/or any other identity documents" with "[travel document fraud]" in paragraph (13)(Y) to conform to the amendments made by RPPL 11-28 § 3.

The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code. The Code Commission has designated the undesignated text at the end of the section as subsection (b).

Supreme Court Cases
Republic of Palau v. Ngarchelong State Gov't., 2019 Palau 5 ¶ 8 (App. Div.).

Subchapter II — Pre-Sentence Investigation and Report, Authorized Disposition, and Classes of Felonies

§ 611. Sentence in accordance with this chapter.

All sentences shall be imposed in accordance with this chapter unless otherwise provided by statute outside of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 610], modified.

§ 612. Definitions of terms in this chapter.

In this chapter, unless a different meaning plainly is required:

(1) "day" means a twenty-four-hour period of time.

(2) "month" means a thirty-day period of time.

(3) "roadway traffic control device" means:

(A) "official traffic signs" as that term is defined in Section 101(g) of Title 42 of the Palau National Code;

(B) signs and markers as referenced in Section 503 of Title 42 of the Palau National Code; and

(C) all other markers, signs, signal devices, road surface markings, traffic lights, rumble strips, and other devices installed and maintained by the Republic for the use of guiding and controlling traffic, including pedestrians, motor vehicle drivers, and bicyclists.

(4) "secure drug treatment facility" means a facility employing security protocols modeled after a minimum-security detention center, including continuous direct supervision.

(5) "year" means a three hundred sixty-five-day period of time.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 611], modified.
RPPL 10-46 § 2, modified, amends section.

§ 613. Time of release.

A person imprisoned whose term of imprisonment ends between the hours of 9:00 p.m. to 12:00 midnight, may be released at 9:00 p.m. A person imprisoned whose term of imprisonment ends between the hours of 12:00 midnight to 7:00 a.m. may be released at 9:00 p.m. the day before the person's scheduled release.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 612], modified.

§ 614. Pre-sentence diagnosis and report.

(a) The court shall order a pre-sentence correctional diagnosis of the defendant and accord due consideration to a written report of the diagnosis before imposing sentence where the defendant has been convicted of a felony.

(b) The court may order a pre-sentence diagnosis in any other case.

(c) With the consent of the court, the requirement of a pre-sentence diagnosis may be waived by agreement of both the defendant and the Attorney General.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 613], modified.

§ 615. Pre-sentence diagnosis, notice to victims, and report.

(a) The pre-sentence diagnosis and report shall be made by personnel assigned to the court, and shall include:

(1) an analysis of the circumstances attending the commission of the crime;

(2) the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status and capacity to make restitution or to make reparation to the victim or victims of the defendant's crimes for loss or damage caused thereby, education, occupation, and personal habits;

(3) information made available by the victim or other source concerning the effect that the crime committed by the defendant has had upon said victim, including but not limited to, any physical or psychological harm or financial loss suffered;

(4) any other matters that the reporting person deems relevant or the court directs to be included.

(b) The court personnel shall give notice of the possibility of restitution by the defendant to all victims of the convicted defendant's criminal acts.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 614], modified.

§ 616. Opportunity to be heard with respect to sentence; notice of pre-sentence report; opportunity to controvert or supplement; transmission of report.

(a) Before imposing sentence, the court shall afford a fair opportunity to the defendant to be heard on the issue of the defendant's sentence.

(b) The court shall furnish to the defendant or the defendant's counsel and to the Attorney General a copy of the report of any pre-sentence diagnosis and afford fair opportunity, if the defendant or the Attorney General so requests, to controvert or supplement them. The court shall amend or order the amendment of the report upon finding that any correction, modification, or addition is needed and, where appropriate, shall require the prompt preparation of an amended report in which material required to be deleted is completely removed or other amendments, including additions, are made.

(c) The court shall afford a fair opportunity to the victim to be heard on the issue of the defendant's sentence, before imposing sentence. The court or personnel who prepare the pre-sentence diagnosis and report shall inform the victim of the sentencing date and of the victim's opportunity to be heard. In the case of a homicide or where the victim is otherwise unable to appear at the sentencing hearing, the victim's family shall be afforded the fair opportunity to be heard.

(d) If the defendant is sentenced to imprisonment, a copy of the pre-sentence diagnosis shall be transmitted immediately to the Bureau of Public Safety.

(e) If the defendant is sentenced to probation, a copy of the pre-sentence diagnosis shall be transmitted immediately to the probation office.

(f) Except for those agencies entitled to receive a copy of the pre-sentence report under this section, the pre-sentence diagnosis report shall be treated as a confidential record that may not be further disseminated without a court order.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 615], modified.

§ 617. Authorized disposition of convicted defendants.

(a) The court may sentence a convicted defendant to one or more of the following dispositions:
   (1) to be placed on probation as authorized by Subchapter III;
   (2) to pay a fine as authorized by Subchapter IV;
   (3) to be imprisoned for a term as authorized by Subchapter V; or
   (4) to perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or other community service group or appropriate supervisor; provided that the convicted person who performs such services shall not be deemed to be an employee of the governmental agency or assigned work site for any purpose. All persons sentenced to perform community service shall be screened and assessed for appropriate placement by a governmental agency coordinating public service work placement as a condition of sentence.

(b) The court shall not sentence a defendant to probation and imprisonment except where a term of imprisonment is included as a condition of probation pursuant to 17 PNC § 635(b)(1).

(c) In addition to any disposition authorized in subsection (a), the court may sentence a person convicted of a misdemeanor or petty misdemeanor to a suspended sentence. The court shall state on the record its reasoning for suspending any sentence.

(d) The court may sentence a person who has been convicted of a violation to any disposition authorized in subsection (a) except imprisonment.

(e) The court shall sentence a corporation or unincorporated association that has been convicted of an offense in accordance with 17 PNC § 619.

(f) When a defendant is ordered to make monetary payments as part of his or her sentence, payments by the defendant shall be made in the following order of priority:
   (1) restitution;

(2) fines;

(3) other fees.

(g) The court shall order the defendant to make restitution for losses as provided in 17 PNC § 657. In ordering restitution, the court shall not consider the defendant's financial ability to make restitution in determining the amount of restitution to order. The court, however, shall consider the defendant's financial ability to make restitution for the purpose of establishing the time and manner of payment.

(h) This chapter does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.

(i) If the interests of the people of the Republic will be served, the court, at the time of sentencing, may order any non-citizen who is convicted of a felony, other than an offense punishable by life imprisonment, to be permanently deported after serving no less than one-third of the term of imprisonment that would otherwise be imposed and paying any fine imposed by the court. It shall be unlawful for any person who is deported pursuant to this section to subsequently re-enter the Republic, and any person who violates this provision shall be required to serve the maximum sentence that could have been imposed on that person for the crime for which the person was deported.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 616], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

Supreme Court Cases
Uchau v. ROP, 2017 Palau 34 ¶¶ 37, 38 (App. Div.).

§ 618. Factors to be considered in imposing a sentence.

The court, in determining the particular sentence to be imposed, shall consider:

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed:

(A) to reflect the seriousness of the offense, to promote respect for law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available; and

(4) The need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

(5) Due recognition shall be given to the customs of the inhabitants of the Republic in accordance with 1 PNC § 414.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 617], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Supreme Court Cases
Tulop v. ROP, 2021 Palau 9 ¶ 37 (App. Div.).
Kloulubak v. ROP, 2017 Palau 16 ¶¶ 8, 10, 14 (App. Div.).

§ 619. Penalties against corporations and unincorporated associations; forfeiture of corporate charter or revocation of license authorizing foreign corporation to do business in the Republic of Palau.

(a) The court may sentence a corporation or an unincorporated association that has been convicted of an offense to be placed on probation as authorized by Subchapter III of this chapter or to be fined as authorized by Subchapter IV of this chapter.

(b) When a corporation is convicted of a crime or a high managerial agent of a corporation, as defined in 17 PNC § 230 of this Penal Code, is convicted of a crime committed in the conduct of the affairs of the corporation, the court, in sentencing the corporation or the agent, may order the charter of a corporation organized under the laws of the Republic of Palau forfeited or the license of a foreign corporation authorizing it to do business in the Republic of Palau revoked upon finding:

(1) that the board of directors or a high managerial agent acting in behalf of the corporation has, in conducting the corporation's affairs, intentionally engaged in a persistent course of criminal conduct; and

(2) that for the prevention of future criminal conduct of the same character, the public interest requires the charter of the corporation to be forfeited and the corporation to be dissolved or the certificate to be revoked.

(c) The proceedings authorized by subsection (b) shall be conducted in accordance with the procedures authorized by law for the involuntary dissolution of a corporation or the revocation of any license authorizing a foreign corporation to conduct business in the Republic of Palau. Such proceedings shall be deemed additional to any other proceedings authorized by law for the purpose of forfeiting the charter of a corporation or revoking the certificate of a foreign corporation.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 618], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 620. Resentence for the same offense or for offense based on the same conduct not to be more severe than prior sentence.

When a conviction or sentence is set aside on direct or collateral attack, the court shall not impose a new sentence for the same offense, or for a different offense based on the same conduct, which is more severe than the prior sentence.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 619], modified.

Supreme Court Cases
Iyechad v. Republic of Palau, 2022 Palau 25 ¶ 2 (App. Div.).
Tulop v. ROP, 2021 Palau 9 ¶ 37 (App. Div.).
Xiao v. ROP, 2020 Palau 4 ¶ 35 n.13 (App. Div.).

§ 621. Classes of felonies.

(a) Apart from first and second degree murder, attempted first and second degree murder, and the offenses set out in Chapter 21 of this title, felonies defined by this Penal Code are classified, for sentencing purposes, into three classes, as follows:
  (1) class A felonies;
  (2) class B felonies; and
  (3) class C felonies.

(b) A felony is a class A, class B, or class C felony when it is so designated by this Penal Code. Except for first and second degree murder, attempted first and second degree murder, and the offenses set out in Chapter 21 of this title, a crime declared to be a felony, without specification of class, is a class C felony.

(c) A felony defined by any statute of the Republic of Palau other than this Penal Code shall constitute for the purpose of sentence a class C felony, except if another provision of law specifically defines a felony to be of a specified class as defined by this Penal Code, such felony shall be treated for the purpose of sentence as provided by this chapter for that class of felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 620], modified.
RPPL 11-28 § 7, modified, amends section.

Supreme Court Cases
Siksei v. Ngiraked, 2018 Palau 7 ¶¶ 7, 8 (App. Div.).
Kloulubak v. ROP, 2017 Palau 16 ¶ 8 (App. Div.).

Subchapter III — Suspension of Sentence and Probation

§ 631. Authority to withhold sentence of imprisonment.

A defendant who has been convicted of a crime may be sentenced to a term of probation unless:

(1) the crime is first or second degree murder or attempted first or second degree murder; or

(2) the defendant is a firearm offender.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 630], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 632. Factors to be considered in imposing a term of probation.

The court, in determining whether to impose a term of probation, shall consider:

(1) the factors set forth in 17 PNC § 618 to the extent that they are applicable;

(2) the following factors, to be accorded weight in favor of withholding a sentence of imprisonment:

(A) the defendant's criminal conduct neither caused nor threatened serious harm;

(B) the defendant acted under a strong provocation;

(C) there were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;

(D) the victim of the defendant's criminal conduct induced or facilitated its commission;

(E) the defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime;

(F) the defendant's criminal conduct was the result of circumstances unlikely to recur;

(G) the character and attitudes of the defendant indicate that the defendant is unlikely to commit another crime;

(H) the defendant is particularly likely to respond affirmatively to a program of restitution or a probationary program or both;

(I) the imprisonment of the defendant would entail excessive hardship to the defendant or the defendant's dependents; and

(J) due recognition shall be given to the customs of the inhabitants of the Republic of Palau.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 631], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 633. Requirement of probation; exception.

When a person who has been convicted of a felony is not sentenced to imprisonment, the court shall place the person on probation. Nothing in this subchapter shall prohibit the court from suspending any sentence imposed upon persons convicted of a crime other than a felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 632], modified.

§ 634. Terms of probation.

(a) When the court has sentenced a defendant to be placed on probation, the period of probation shall be as follows, unless the court enters reasons on the record for departing from this section and sentences the defendant to a shorter period of probation:
  (1) ten (10) years upon conviction of a class A felony;
  (2) five (5) years upon conviction of a class B or class C felony;
  (3) one (1) year upon conviction of a misdemeanor; or
  (4) six (6) months upon conviction of a petty misdemeanor.

(b) The court, on application of a probation officer, on application of the defendant, or on its own motion, may discharge the defendant at any time. Prior to granting early discharge, the court shall afford the Attorney General an opportunity to be heard.

(c) When a defendant who is sentenced to probation has previously been detained following arrest for the crime for which sentence is imposed, the period of detention following arrest shall be deducted from the term of imprisonment if the term is given as a condition of probation. The pre-sentence report shall contain a certificate showing the length of such detention of the defendant prior to sentence in any correctional or other institution, and the certificate shall be annexed to the official records of the defendant's sentence.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 633], modified.

Notes
The Code Commission has designated the undesignated text following subsection (a)(4) as subsection (b) and redesignated the subsequent subsections accordingly.

Supreme Court Cases
Siksei v. Ngiraked, 2018 Palau 7 ¶ 8 (App. Div.).

§ 635. Conditions of probation.

(a) *Mandatory conditions*.—The court shall provide, as an explicit condition of a sentence of probation, that:

(1) the defendant shall not commit another crime or engage in criminal conduct in the Republic of Palau or any jurisdiction that would constitute a crime under the law of the Republic of Palau during the term of probation;

(2) the defendant shall report to a probation officer as directed by the court or the probation officer;

(3) the defendant shall remain within the jurisdiction of the court, unless granted permission to leave by the court or a probation officer;

(4) the defendant shall notify a probation officer prior to any change in address or employment;

(5) the defendant shall notify a probation officer promptly if arrested or questioned by a law enforcement officer;

(6) the defendant shall permit a probation officer to visit the defendant at the defendant's home or elsewhere as specified by the court; and

(7) the defendant shall make restitution for losses suffered by the victim or victims if the court has ordered restitution pursuant to 17 PNC § 657.

(b) *Discretionary conditions*.—The court may provide, as further conditions of a sentence of probation, to the extent that the conditions are reasonably related to the factors set forth in 17 PNC § 618 and to the extent that the conditions involve only deprivations of liberty or property as are reasonably necessary for the purposes indicated in 17 PNC § 618(2), that the defendant:

(1) serve a term of imprisonment not exceeding two years in class A felony cases, eighteen months in class B felony cases, one year in class C felony cases, six months in misdemeanor cases, and five days in petty misdemeanor cases;

(2) perform a specified number of hours of services to the community as described in 17 PNC § 617(a)(4);

(3) support the defendant's dependents and meet other family responsibilities;

(4) pay a fine imposed pursuant to 17 PNC § 617(a)(2);

(5) work conscientiously at suitable employment or pursue conscientiously a course of study or vocational training that will equip the defendant for suitable employment;

(6) refrain from engaging in a specified occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the crime or engage in the specified occupation, business, or profession only to a stated degree or under stated circumstances;

(7) refrain from frequenting specified kinds of places or from associating unnecessarily with specified persons, including but not limited to the victim of the crime, any witnesses, regardless of whether they actually testified in the prosecution, law enforcement officers, co-defendants, or other individuals with whom contact may adversely affect the rehabilitation or reformation of the person convicted;

(8) refrain from use of alcohol or any use of narcotic drugs or controlled substances without a prescription;

(9) refrain from possessing any destructive device or dangerous weapon;

(10) undergo available medical or mental health treatment, including treatment for substance abuse dependency, and remain in a specified facility if required for that purpose;

(11) reside in a specified place or area or refrain from residing in a specified place or area;

(12) submit to periodic urinalysis or other similar testing procedure;

(13) refrain from entering specified geographical areas without the court's permission;

(14) comply with a specified curfew; or

(15) satisfy other reasonable conditions as the court may impose.

(c) The court may require the defendant to contribute to the cost of conducting urinalysis or other similar testing procedure and the cost of substance abuse treatment.

(d) Written statement of conditions. The court shall order the defendant at the time of sentencing to sign a written acknowledgment of receipt of conditions of probation. The defendant shall be given a written copy of any requirements imposed pursuant to this section, stated with sufficient specificity to enable the defendant to comply with the conditions accordingly.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 634], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

Supreme Court Cases
Uchau v. ROP, 2017 Palau 34 ¶ 41 (App. Div.).

§ 636. Revocation, modification of probation conditions.

(a) The court, on application of a probation officer, the Attorney General, the defendant, or on its own motion, after a hearing, may revoke probation, reduce or enlarge the conditions of a sentence of probation, pursuant to the provisions applicable to the initial setting of the conditions and the provisions of 17 PNC § 635.

(b) The Attorney General, the defendant's probation officer, and the defendant shall be notified by the movant in writing of the time, place, and date of any such hearing, and of the grounds upon which action under this section is proposed. The Attorney General, the defendant's probation officer, and the defendant may appear in the hearing to oppose or support the application, and may submit evidence for the court's consideration. The defendant shall have the right to be represented by counsel. For purposes of this section the court shall not be bound by the Rules of Evidence, except for the rules pertaining to privileges.

(c) The court shall revoke probation if the defendant has inexcusably failed to comply with a substantial requirement imposed as a condition of the order or has been convicted of a felony. The court may revoke the suspension of sentence or probation if the defendant has been convicted of another crime other than a felony.

(d) The court may modify the requirements imposed on the defendant or impose further requirements, if it finds that such action will assist the defendant in leading a law-abiding life.

(e) When the court revokes probation, it may impose on the defendant any sentence that might have originally been imposed for the crime of which the defendant was convicted.

(f) As used in this section, "conviction" means that a judgment has been pronounced upon the verdict.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 635], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format.

Cross-references
ROP Rules of Evidence

Supreme Court Cases
Iyechad v. Republic of Palau, 2022 Palau 25 ¶ 6 (App. Div.).
Meyar v. Republic of Palau, 2022 Palau 24 ¶ 6 (App. Div.).

§ 637. Summons or arrest of defendant on probation; commitment without bail.

At any time before the discharge of the defendant or the termination of the period of probation:

(1) the court may, in connection with the probation, summon the defendant to appear before it or may issue a warrant for the defendant's arrest;

(2) a probation or law enforcement officer, having probable cause to believe that the defendant has failed to comply with a requirement imposed as a condition of the order, may arrest the defendant without a warrant and the defendant shall be held in custody pending the posting of bail pursuant to a bail schedule established by the court, or until a hearing date is set; provided that when the punishment for the original offense does not exceed one year, the probation or law enforcement officer may admit the probationer to bail; or

(3) the court, if there is probable cause to believe that the defendant has committed another crime or has been held to answer for another crime, may commit the defendant without bail, pending a determination of the new charge by the court having jurisdiction thereof.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 636], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 638. Tolling of probation.

(a) Upon the filing of a motion to revoke probation or a motion to enlarge the conditions of probation, the period of probation shall be tolled pending the hearing upon the motion and the decision of the court. The period of tolling shall be computed from the filing date of the motion through and including the filing date of the written decision of the court concerning the motion for purposes of computation of the remaining period of probation, if any. In the event the court

fails to file a written decision upon the motion, the period shall be computed by reference to the date the court makes a decision upon the motion in open court. During the period of tolling of the probation, the defendant shall remain subject to all terms and conditions of the probation except as otherwise provided by this chapter.

(b) In the event the court, following hearing, refuses to revoke the probation or grant the requested enlargement of conditions of probation because the defendant's failure to comply therewith was excusable, the defendant may be granted the period of tolling of the probation for purposes of computation of the remaining probation, if any.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 637], modified.

§ 639. Calculation of multiple dispositions involving probation and imprisonment, or multiple terms of probation.

(a) When the disposition of a defendant involves more than one crime:
  (1) the court shall not impose a sentence of probation and a sentence of imprisonment except where the term of imprisonment is a condition of probation as authorized by 17 PNC § 635(b)(1); and
  (2) multiple periods of probation shall run concurrently from the date of the first such disposition.

(b) When a defendant, already under sentence, is convicted for another crime committed prior to the former disposition:
  (1) the court shall not sentence to probation a defendant who is under sentence of imprisonment with more than six months to run;
  (2) multiple periods of probation shall run concurrently from the date of the first such disposition; and
  (3) when a defendant, already under sentence of probation, is sentenced to imprisonment, the service of imprisonment shall not toll the prior sentence of probation.

(c) When a defendant is convicted of a crime committed while on probation and such probation is not revoked:
  (1) if the defendant is sentenced to imprisonment, the service of such sentence shall not toll the prior sentence of probation; and
  (2) if the defendant is sentenced to probation, the period of such probation shall run concurrently with or consecutively to the remainder of the prior period, as the court determines at the time of disposition.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 638], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format.

§ 640. Discharge of defendant.

Upon the termination of the period of the probation or the earlier discharge of the defendant, the defendant shall be relieved of any obligations imposed by the order of the court and shall have satisfied the disposition of the court, except as to any action under this chapter to collect unpaid fines, restitution, attorney's fees, costs, or interest.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 639], modified.

Supreme Court Cases
Uchau v. ROP, 2017 Palau 34 ¶ 38 (App. Div.).

§ 641. Probation is a final judgment for other purposes.

A judgment sentencing a defendant to be placed on probation shall be deemed tentative, to the extent provided in this chapter, but for all other purposes shall constitute a final judgment.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 640], modified.

Subchapter IV — Fines and Restitution

§ 651. Authorized fines.

(a) A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:
- (1) fifty thousand dollars ($50,000), when the conviction is of a class A felony, murder in the first or second degree, or attempted murder in the first or second degree;
- (2) twenty-five thousand dollars ($25,000), when the conviction is of a class B felony;
- (3) ten thousand dollars ($10,000), when the conviction is of a class C felony;
- (4) one thousand dollars ($1,000), when the conviction is of a misdemeanor;
- (5) five hundred dollars ($500), when the conviction is of a petty misdemeanor or a violation;
- (6) any higher amount equal to double the pecuniary gain derived from the offense by the defendant;
- (7) any higher or lower amount specifically authorized by statute.

(b) Consequences for nonpayment of a fine shall be governed by 17 PNC § 655.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 650], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format.

§ 652. Criteria for imposing fines.

(a) The court shall not sentence a defendant only to pay a fine, when any other disposition is authorized by law, except in misdemeanor and petty misdemeanor cases.

(b) The court shall not sentence a defendant to pay a fine in addition to a sentence of imprisonment or probation unless:
- (1) the defendant has derived a pecuniary gain from the crime; or
- (2) the court is of the opinion that a fine is specially adapted to the deterrence of the crime involved or to the correction of the defendant.

(c) The court shall not sentence a defendant to pay a fine unless:
- (1) the defendant is or will be able to pay the fine; and
- (2) the fine will not prevent the defendant from making restitution to the victim of the offense.

(d) In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden that its payment will impose.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 651], modified.

Supreme Court Cases
Uchau v. ROP, 2017 Palau 34 ¶ 34 (App. Div.).

§ 653. Time and method of payment.

(a) When a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence, the fine shall be payable forthwith by cash, check, or by a credit card approved by the court.

(b) When a defendant sentenced to pay a fine is also sentenced to probation, the court may make the payment of the fine a condition of probation.

(c) When a defendant sentenced to pay a fine is also ordered to make restitution or reparation to the victim or victims, or to the person or party who has incurred loss or damage because of the defendant's crime, the payment of restitution or reparation shall have priority over the payment of the fine. No fine shall be collected until the restitution or reparation order has been satisfied.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 652], modified.

§ 654. Disposition of funds.

(a) The defendant shall pay a fine or any installment thereof to the Clerk of the Court. In the event of default in payment, the Clerk of the Court shall notify the Attorney General and, if the defendant is on probation, the probation officer.

(b) All fines and other final payments received by a Clerk or other officer of a court shall be accounted for, with the names of persons making payment, and the amount and date thereof, being recorded. All such funds shall be deposited into the national treasury.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 653], modified.

§ 655. Consequences of nonpayment; imprisonment for contumacious nonpayment; summary collection.

(a) When a defendant is sentenced pursuant to 17 PNC § 617, or granted a deferred plea pursuant to Subchapter I of 17 PNC Chapter 6 of this Penal Code, and the defendant is ordered to pay a fee, fine, or restitution, whether as an independent order, as part of a judgment and sentence, or as a condition of probation or deferred plea, and the defendant defaults in the payment thereof or of any installment, the court, upon the motion of the Attorney General or upon its own motion, may require the defendant to show cause why the defendant's default should not be treated as contumacious and may issue a summons or a warrant of arrest for the defendant's appearance. Unless the defendant shows that the defendant's default was not attributable to an intentional refusal to obey the order of the court, or to a failure on the defendant's part to make a good faith effort to obtain the funds required for the payment, the court shall find that the defendant's default was contumacious and may order the defendant committed until the fee, fine, restitution, or a specified part thereof is paid.

(b) When a fee, fine, or restitution is imposed on a corporation or unincorporated association, it is the duty of the person or persons authorized to make disbursement from the assets of the corporation or association to pay it from those assets, and their failure to do so may be held contumacious unless they make the showing required in subsection (a).

(c) The term of imprisonment for nonpayment of fee, fine, or restitution shall be specified in the order of commitment, and shall not exceed one day for each twenty-five dollars ($25) of the fee or fine, thirty days if the fee or fine was imposed upon conviction of a violation or a petty misdemeanor, or one year in any other case, whichever is the shorter period. A person committed for nonpayment of a fee or fine shall be given credit toward payment of the fee or fine for each day of imprisonment, at the rate of twenty-five dollars ($25) per day.

(d) If it appears that the defendant's default in the payment of a fee, fine, or restitution is not contumacious, the court may make an order allowing the defendant additional time for payment, reducing the amount of each installment, or revoking the fee, fine, or the unpaid portion thereof in whole or in part, or converting the unpaid portion of the fee or fine to community service. A defendant shall not be discharged from an order to pay restitution until the full amount of the restitution has actually been collected or accounted for.

(e) Unless discharged by payment or, in the case of a fee or fine, service of imprisonment pursuant to subsection (c), an order to pay a fee, fine, or restitution, whether as an independent order, as a part of a judgment and sentence, or as a condition of probation or deferred plea pursuant to Subchapter I of 17 PNC Chapter 6 of this Penal Code, may be collected in the same manner as a judgment in a civil action. The Republic of Palau or the victim named in the order may collect the restitution, including costs, interest, and attorney's fees, pursuant to 17 PNC § 657. The Republic of Palau may collect the fee or fine, including costs, interest, and attorney's fees pursuant to 17 PNC § 658.

(f) Attorney's fees, costs, and interest shall not be deemed part of the penalty, and no person shall be imprisoned under this section in default of payment of attorney's fees, costs, and interest.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 654], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

Supreme Court Cases
Uchau v. ROP, 2017 Palau 34 ¶ 38 (App. Div.).
Keptot v. ROP, 2018 Palau 2 ¶¶ 4, 5, 7 (App. Div.).

§ 656. Revocation of fine or restitution.

(a) A defendant who has been sentenced to pay a fine or restitution and who is not in contumacious default in the payment thereof may at any time petition the court that sentenced the defendant for a revocation of the fine or restitution or of any unpaid portion thereof.

(b) If it appears to the satisfaction of the court that the circumstances which warranted the imposition of the fine or restitution have changed, or that it would otherwise be unjust to require payment, the court may revoke the fine or restitution or the unpaid portion thereof in

whole or in part. Prior to revocation, the court shall afford the Attorney General an opportunity to be heard.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 655], modified.

§ 657. Victim restitution.

(a) As used in this section, "victim" includes any of the following:
  (1) the direct victim of a crime including a business entity, trust, or governmental entity;
  (2) if the victim dies as a result of the crime, a surviving relative of the victim as defined in 25 PNC Chapter 2; or
  (3) a governmental entity that has reimbursed the victim for losses arising as a result of the crime.

(b) The court shall order the defendant to make restitution for reasonable and verified losses suffered by the victim or victims as a result of the defendant's offense when requested by the victim. For cases in which the defendant is convicted of an offense under Chapter 25 of this title and the offense is related to damage of the Republic's roads or roadway traffic control devices, the court shall order the defendant to make restitution for reasonable and verified losses suffered by the Republic of Palau as a result of the defendant's offense. If the court orders payment of a fine in addition to restitution or a compensation fee, or both, the payment of restitution and compensation fee shall have priority over the payment of the fine, and payment of restitution shall have priority over payment of a compensation fee.

(c) In ordering restitution, the court shall not consider the defendant's financial ability to make restitution in determining the amount of restitution to order. The court, however, shall consider the defendant's financial ability to make restitution for the purpose of establishing the time and manner of payment. The court shall specify the time and manner in which restitution is to be paid. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including but not limited to:
  (1) full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible;
  (2) medical expenses; and
  (3) funeral and burial expenses incurred as a result of the crime.

(d) The restitution ordered shall not affect the right of a victim to recover in any manner provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award.

(e) For cases in which the defendant is convicted of an offense under Chapter 25 of this title and the offense is related to damage of the Republic's roads or roadway traffic control devices, all restitution payments owed to the Republic shall be deposited in the Road Maintenance Fund established in 40 PNC § 1404(b).

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 656], modified.

RPPL 10-46 § 3, modified, amends subsection (b) and adds subsection (e).

Supreme Court Cases
Keptot v. ROP, 2018 Palau 2 ¶¶ 4, 5, 7 (App. Div.).

§ 658. Civil enforcement.

A certified or exemplified copy of an order of any court of the Republic of Palau for payment of a fine or restitution pursuant to 17 PNC § 617 may be filed with the Clerk of the Court as a special proceeding without the assessment of a filing fee. The order, whether as an independent order, as part of a judgment and sentence, or as a condition of probation or deferred plea, shall be enforceable in the same manner as a civil judgment.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 657], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 659. Probation services fee.

(a) The court, when sentencing a defendant to probation, may order the defendant to pay a probation services fee. The amount of the fee shall not exceed:
  (1) one hundred fifty dollars ($150.00) when the term of probation is for more than one year; or
  (2) seventy five dollars ($75) when the term of probation is for one year or less; provided that no fee shall be ordered when the court determines that the defendant is unable to pay the fee.

(b) The entire fee ordered or assessed shall be payable forthwith by cash, check, or by a credit card approved by the court. When a defendant is also ordered to pay a fine, make restitution, or pay other fees in addition to the probation services fee under subsection (a), payments by the defendant shall be made in the following order of priority:
  (1) restitution;
  (2) probation services fee;
  (3) other fees; and
  (4) fines.

(c) The defendant shall pay the probation services fee to the Clerk of the Court. The fee shall be deposited into a special fund within the National Treasury for use by the probation office to offset the costs associated with probation supervision.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 658], modified.

Supreme Court Cases
Uchau v. ROP, 2017 Palau 34 ¶ 39 (App. Div.).

Subchapter V — Imprisonment

§ 661. Terms of imprisonment for first and second degree murder and attempted first and second degree murder.

(a) Persons convicted of first degree murder or first degree attempted murder shall be sentenced to life imprisonment without possibility of parole.

As part of such sentence the court shall order the Ministry of Justice and the paroling authority to prepare an application for the President of the Republic of Palau to commute the sentence to life imprisonment with parole at the end of twenty (20) years of imprisonment.

(b) Persons convicted of second degree murder and attempted second degree murder shall be sentenced up to life imprisonment with possibility of parole. The length of imprisonment shall be determined by the court after consideration of the factors set forth in 17 PNC §§ 618 and 631 and shall be no less than twenty (20) years.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 660], modified.
RPPL 9-48 § 2, modified, amends section in its entirety.

§ 662. Sentence of imprisonment for class A felony.

A person who has been convicted of a class A felony may be sentenced to a term of imprisonment of up to twenty-five (25) years without the possibility of suspension of sentence. The length of imprisonment shall be determined by the court after consideration of the factors set forth in 17 PNC §§ 618 and 631 and shall be no less than one (1) year.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 661], modified.
RPPL 9-48 § 2, modified, amends section.

Supreme Court Cases
Xiao v. ROP, 2020 Palau 4 ¶ 31 (App. Div.).
Siksei v. Ngiraked, 2018 Palau 7 ¶ 8 (App. Div.).
Kloulubak v. ROP, 2017 Palau 16 ¶¶ 6, 8 (App. Div.).

§ 663. Sentence of imprisonment for class B and C felonies; ordinary terms.

(a) A person who has been convicted of a class B or class C felony may be sentenced to term of imprisonment as follows:

(1) for a class B felony up to ten (10) years; and

(2) for a class C felony up to five (5) years.

(b) The length of imprisonment shall be determined by the court after consideration of the factors set forth in 17 PNC §§ 618 and 631 and shall be no less than one (1) year.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 662], modified.

RPPL 9-48 § 2, modified, amends section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code, including designating subsections (a) and (b).

Supreme Court Cases
Siksei v. Ngiraked, 2018 Palau 7 ¶ 8 (App. Div.).

§ 664. Sentence of imprisonment for misdemeanor and petty misdemeanor.

After consideration of the factors set forth in 17 PNC §§ 618 and 631, the court may sentence a person who has been convicted of a misdemeanor or a petty misdemeanor to imprisonment for a definite term to be fixed by the court and not to exceed one (1) year in the case of a misdemeanor or thirty (30) days in the case of a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 663], modified.

§ 665. Former conviction in another jurisdiction.

For sentencing purposes, a conviction of the commission of a crime in another jurisdiction shall constitute a previous conviction. Such conviction shall be deemed to have been of a felony if sentence of death or of imprisonment in excess of one (1) year was authorized under the law of such other jurisdiction. Such a conviction shall be graded, for purposes of 17 PNC § 621 of this Penal Code by comparing the maximum imprisonment authorized under the law of such other jurisdiction with the maximum imprisonment authorized for the relevant grade of felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 664], modified.

§ 666. Definition of proof of conviction.

(a) An adjudication by a court of competent jurisdiction that the defendant committed a crime constitutes a conviction for sentencing purposes, although sentence or the execution thereof was suspended, provided that the defendant was not pardoned on the ground of actual innocence.

(b) Prior conviction may be proved by any evidence, including fingerprint records made in connection with arrest, conviction, or imprisonment, that reasonably satisfies the court that the defendant was convicted.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 665], modified.

§ 667. Multiple sentence of imprisonment.

(a) If multiple terms of imprisonment are imposed on a defendant, whether at the same time or at different times, or if a term of imprisonment is imposed on a defendant who is already subject

to an unexpired term of imprisonment, the terms may run concurrently or consecutively. Multiple terms of imprisonment run concurrently unless the court orders or the statute mandates that the terms run consecutively.

(b) The court, in determining whether the terms imposed are to be ordered to run concurrently or consecutively, shall consider the factors set forth in 17 PNC § 618.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 666], modified.

§ 668. Procedure for determining minimum term of imprisonment. [Repealed]

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 667], modified.
RPPL 9-48 § 3 repeals section.

Notes
RPPL 9-48 Section 3 repeals 17 PNC §§ 667–668, which have been renumbered §§ 668–669 accordingly.

§ 669. Parole procedure; release on parole; terms of parole, recommitment, and reparole; final unconditional release. [Repealed]

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 668], modified.
RPPL 9-48 § 3 repeals section.

Notes
RPPL 9-48 Section 3 repeals 17 PNC §§ 667–668, which have been renumbered §§ 668–669 accordingly.

§ 670. Credit for time of detention prior to sentence; credit for imprisonment under earlier sentence for same crime.

(a) When a defendant who is sentenced to imprisonment has previously been detained in any correctional or other institution following the defendant's arrest for the crime for which sentence is imposed, such period of detention following the defendant's arrest shall be deducted from the minimum and maximum terms of such sentence. The officer having custody of the defendant shall furnish a certificate to the court at the time of sentence, showing the length of such detention of the defendant prior to sentence in any correctional or other institution, and the certificate shall be annexed to the official records of the defendant's commitment.

(b) When a judgment of conviction or a sentence is vacated and a new sentence is thereafter imposed upon the defendant for the same crime, the period of detention and imprisonment theretofore served shall be deducted from the minimum and maximum terms of the new sentence. The officer having custody of the defendant shall furnish a certificate to the court at the time of sentence, showing the period of imprisonment served under the original sentence, and the certificate shall be annexed to the official records of the defendant's new commitment.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 669], modified.

Supreme Court Cases
Iyechad v. Republic of Palau, 2022 Palau 25 ¶¶ 9, 13 (App. Div.).

§ 671. Place of imprisonment.

When a person is sentenced to imprisonment, the court shall commit the person to the custody of the Bureau of Public Safety for the term of the person's sentence and until released in accordance with law. The Bureau of Public Safety shall determine the proper program of redirection and any place of confinement of the committed person. Such place of confinement may be within the Republic of Palau or outside of the Republic of Palau.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 6 § 670], modified.

Chapter 7 — Forfeiture

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 7 read §§ 700–719, which has been renumbered to §§ 701–720 to conform with the Style of the Code.

Supreme Court Cases
Ellender Ngirameketii v. ROP, 2022 Palau 9 ¶ 8 (App. Div.).

§ 701. Short title.

This chapter may be cited as the "Criminal Forfeiture Act."

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 701 and RPPL 9-21 § 5 [Chapter 7 § 700] adds section.

Supreme Court Cases
Ellender Ngirameketii v. ROP, 2022 Palau 9 ¶ 8 (App. Div.).

§ 702. Definitions.

In this chapter, unless a different meaning plainly is required:

(1) "Attorney General" means the Attorney General or Assistant Attorneys General of the Republic of Palau, or other designated prosecuting entity.

(2) "contraband" means any property the possession of which is illegal.

(3) "controlled substances" means a drug, substance, or immediate precursor in Schedules I through V of 34 PNC Chapter 31.

(4) "covered offense" means any crime set forth in 17 PNC § 704 of Chapter 7 of this Penal Code or any other offense for which forfeiture is provided by the law relating to a particular offense.

(5) "enterprise" includes any sole proprietorship, partnership, corporation, association, or any group of individuals associated for a particular purpose although not a legal entity.

(6) "interest-holder" means a person in whose favor there is a security interest or who is the beneficiary of a perfected encumbrance pertaining to an interest in property.

(7) "law enforcement officer" means any public servant, whether employed by the Republic of Palau, state, municipality, or subdivisions thereof, vested by law with a duty to maintain public order, to make arrests for offenses, or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses. The Attorney General, Assistant Attorneys General, or other prosecuting agency engaged in the enforcement of criminal laws are included in the definition of the term law enforcement officer.

(8) "owner" means a person who is not a secured party and who has an interest in property, whether legal or equitable. A purported interest that is not in compliance with any statute requiring its recordation or reflection in public records in order to perfect the interest against a bona fide purchaser for value shall not be recognized as an interest

against the Republic of Palau in an action pursuant to this chapter. An owner with power to convey property binds other owners, and a spouse binds the person's spouse, by any act or omission.

(9) "person" includes any individual or entity capable of holding a legal or beneficial interest in property.

(10) "person known to have an interest" means a person whose interest in property is reflected in the public records in which the person's interest is required by law to be recorded or reflected in order to perfect the person's interest. If a person's interest in property is not required by law to be reflected in public records in order to perfect the person's interest in the property, a person shall be known to have an interest only if such interest can be readily ascertained at the time of the commencement of the forfeiture action pursuant to this chapter.

(11) "proceeds" means anything of value, derived directly or indirectly from or realized through unlawful activity.

(12) "property" means real property, including things growing on, affixed to, and found on land; tangible and intangible personal property, including currency, instruments, vehicles, boats, aircraft or any other kind of conveyance; legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in such assets, including but not limited to bank credits, deposits and other financial resources, travelers checks, bank checks, money orders, securities, bonds, drafts, letters of credits; and all rights, privileges, interests, dividends, claims, and securities pertaining to such property whether such property is situated in the Republic of Palau or elsewhere.

(13) "seizing agency" means any bureau or agency of the Republic of Palau, states, municipalities, or any subdivisions thereof, which regularly employs law enforcement officers, and that employed the law enforcement officer who seized property for forfeiture, or such other agency as the seizing agency may designate in a particular case by its chief executive officer or designee.

(14) "seizure for evidence" means seizure of property by a law enforcement officer.

(15) "seizure for forfeiture" means seizure of property by a law enforcement officer coupled with an assertion by the seizing agency or by the Attorney General that the property is subject to forfeiture.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 701], modified.

Supreme Court Cases
Surangel and Sons Co. v. Republic of Palau, 2023 Palau 22 ¶ 17 (App. Div.).

§ 703. Jurisdiction.

(a) The Republic of Palau may commence civil in rem forfeiture proceedings in the Trial Division of the Supreme Court of the Republic of Palau if the property for which forfeiture is sought is within the Republic of Palau at the time of the filing of the action.

(b) The Republic of Palau may commence civil in personam forfeiture proceedings in the Trial Division of the Supreme Court of the Republic of Palau if the courts of the Republic of Palau have jurisdiction of an owner of or interest-holder in the property.

(c) The Republic of Palau may commence a criminal forfeiture proceeding in the Trail Division of the Supreme Court of the Republic of Palau that has jurisdiction of an owner of or interest-holder in the property.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 702], modified.

Supreme Court Cases
Surangel and Sons Co. v. Republic of Palau, 2023 Palau 22 ¶ 16 n. 3 (App. Div.).
Ellender Ngirameketii v. ROP, 2022 Palau 9 ¶ 21 (App. Div.).

§ 704. Covered offenses.

Offenses for which property is subject to forfeiture under this chapter are:

(1) all offenses that specifically authorize forfeiture;

(2) murder; kidnapping; terrorism; labor trafficking; human smuggling; aggravated human smuggling; travel document fraud; human trafficking; aggravated human trafficking; trafficking in children; aggravated trafficking in children; exploiting a trafficked person; exploiting a trafficked child; gambling; criminal property damage; robbery; bribery; theft; unauthorized entry into motor vehicle; burglary; money laundering; trademark counterfeiting; insurance fraud; the position, trafficking, or manufacture of controlled substances as set forth in 34 PNC Chapter 33; promoting child exploitation, or electronic enticement of a child; and that which is chargeable as a felony offense under the laws of the Republic of Palau;

(3) promoting pornography, promoting pornography for minors, or promoting prostitution, which is chargeable as a felony or misdemeanor offense, but not as a petty misdemeanor, under the laws of the Republic of Palau; and

(4) the attempt, conspiracy, solicitation, coercion, or intimidation of another to commit any offense for which property is subject to forfeiture.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 703], modified.
RPPL 11-28 § 8, modified, amends section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Supreme Court Cases
Ellender Ngirameketii v. ROP, 2022 Palau 9 ¶ 19 (App. Div.).

§ 705. Property subject to forfeiture; exemption.

(a) The following is subject to forfeiture:

(1) property described in a statute authorizing forfeiture;

(2) property used or intended for use in the commission of, attempt to commit, or conspiracy to commit a covered offense, or which facilitated or assisted such activity;

(3) any firearm that is subject to forfeiture under any section of the PNC or that is visibly carried during, or used in furtherance, of the commission, attempt to commit, or conspiracy to commit a covered offense, or any firearm found in proximity to contraband or to instrumentalities of an offense;

(4) contraband shall be seized and summarily forfeited to the Republic of Palau without regard to the procedures set forth in this chapter;

(5) any proceeds or other property acquired, maintained, or produced by means of or as a result of the commission of the covered offense;

(6) any property derived from any proceeds that were obtained directly or indirectly from the commission of a covered offense;

(7) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that has been established, participated in, operated, controlled, or conducted in order to commit a covered offense;

(8) all books, records, bank statements, accounting records, microfilms, tapes, computer data, or other data which are used, intended for use, or which facilitated or assisted in the commission of a covered offense, or which document the use of the proceeds of a covered offense.

(b) Except that:

(1) real property, or an interest therein, may be forfeited under the provisions of this chapter only in cases in which the covered offense is chargeable as a felony offense under the laws of the Republic of Palau;

(2) no property shall be forfeited under this chapter to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge and consent of that owner;

(3) no conveyance used by any person as a common carrier in the transaction of a business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(4) no conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent; and

(5) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission.

(c) A person who knowingly violates a seizure for forfeiture order by conveying, disposing of or otherwise dealing with property that is subject to the order commits a class C felony and may be fined a maximum fine of twenty thousand dollars ($20,000).

(d) Where a seizure for forfeiture order is entered against property and the property is disposed of, or otherwise dealt with, in violation of the order, the Attorney General may apply to the court for an order that the disposition, conveyance or dealing be set aside unless the disposition,

conveyance or dealing was for sufficient consideration or in favor of a person who acted in good faith and without notice.

(e) Where the Attorney General makes an application under subsection (d) in relation to a disposition, conveyance or dealing, the court may set aside the disposition, conveyance or dealing as from the day on which the disposition, conveyance or dealing took place; or as from the day of the order was issued and declare the respective rights of any person who acquired interests in the property on or after the day on which the disposition, conveyance or dealing took place and before the day of the order under this section was issued.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 704], modified.

Supreme Court Cases
Surangel and Sons Co. v. Republic of Palau, 2023 Palau 22 ¶ 17 (App. Div.).

§ 706. Excessive forfeitures.

The court shall limit the scope of a forfeiture judgment issued pursuant to 17 PNC § 705(a)(2) to the extent the court finds the effect of the forfeiture is grossly disproportionate to the nature and severity of the owner's conduct. In determining whether forfeiture is grossly disproportionate, the court may consider:

(1) the degree to which the property was used to facilitate the conduct that subjects property to forfeiture and the importance of the property to the conduct;

(2) the gain received or expected by an owner from the conduct that subjects property to forfeiture and the value of the property subject to forfeiture;

(3) the nature and extent of the owner's culpability; and

(4) the owner's effort to prevent the conduct or assist in prosecution.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 705], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 707. Seizure of property.

(a) Personal property subject to forfeiture under this chapter may be seized for forfeiture by a law enforcement officer:

(1) on process issued pursuant to the rules of civil procedure or the provisions of this chapter including a seizure warrant;

(2) by making a seizure for forfeiture on property seized on process issued pursuant to law; or

(3) by making a seizure for forfeiture without court process as follows:

(A) the seizure for forfeiture is of property seized incident to an arrest or search;

(B) the property subject to seizure for forfeiture has been the subject of a prior judgment in favor of the Republic of Palau or any state thereof in a forfeiture proceeding;

(C) the law enforcement officer has probable cause to believe that the property seized for forfeiture is directly or indirectly dangerous to health or safety;

(D) the law enforcement officer has probable cause to believe that the property is subject to forfeiture; or

(E) the seizure for forfeiture is of perishable natural resources, which may be sold prior to forfeiture proceedings, and the proceeds deposited with the Forfeited Property Fund established pursuant to 17 PNC § 717.

(b) Real property subject to forfeiture under this chapter may be seized for forfeiture by a law enforcement officer pursuant to court order following a pre-seizure hearing in the Trial Division of the Supreme Court. Notice of the pre-seizure hearing is to be made to the owners and interest-holders pursuant to 17 PNC § 709. The court shall order the real property in question to be seized for forfeiture if it finds probable cause that the real property is subject to forfeiture under any provision of the laws of the Republic of Palau.

(c) In determining probable cause for seizure, the fact that a firearm, money, or any negotiable instrument was found in proximity to contraband or to instrumentalities of an offense gives rise to an inference that the money, or instrument was the proceeds of contraband or that the firearm, money or instrument was used or intended to be used to facilitate commission of the offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 706], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 708. Powers and duties of law enforcement officers and agencies.

(a) In the event of a seizure for forfeiture under 17 PNC § 707, the property is not subject to replevin, conveyance, sequestration, or attachment but is deemed to be in the custody of the law enforcement agency making the seizure for forfeiture. The seizing agency or the Attorney General may authorize the release of the seizure for forfeiture on the property if forfeiture or retention is unnecessary, may transfer the property to any other national, state, or municipal agency or may transfer the action to another prosecuting agency by discontinuing forfeiture proceedings in favor of forfeiture proceedings initiated by the other agency. An action pursuant to this chapter shall be consolidated with any other action or proceeding pursuant to this chapter relating to the same property upon motion by the Attorney General or prosecuting agency in either action.

(b) If property is seized for forfeiture under 17 PNC § 707 pending forfeiture and final disposition, the seizing agency may do any of the following:

(1) place the property under constructive seizure by posting notice of seizure for forfeiture on the property or by filing notice of seizure for forfeiture or notice of pending forfeiture in any appropriate public record relating to the property;

(2) remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money, deposit it in an interest bearing account;

(3) remove the property to a place designated by the court; or

(4) provide for another agency to take custody of the property and remove it to an appropriate location within the jurisdiction of the court.

(c) As soon as practicable after seizure for forfeiture, the seizing agency shall conduct an inventory and estimate the value of the property seized. Within twenty (20) days after seizure for forfeiture the seizing agency shall make reasonable efforts to give notice of seizure for forfeiture in the manner provided in 17 PNC § 709(1) or 709(2) to all parties known to have an interest in the seized property.

(d) In the event of a seizure for forfeiture under 17 PNC § 707, the seizing agency shall send to the Attorney General a written request for forfeiture within thirty days, which shall include a statement of facts and circumstances of the seizure, the appraised or estimated value of the property, and a summary of the facts relied on for forfeiture.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 707], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 709. Notice of forfeiture proceedings.

Unless otherwise provided, whenever notice is required under this chapter it shall be given in one of the following ways:

(1) if the owner's or interest-holder's name and current address are known:

(A) by personal service; or

(B) by mail;

(2) if the owner's or interest-holder's interest is required by law to be on record with an agency of the Republic of Palau in order to perfect an interest in the property, but the person's current address is not known, by mailing a copy of the notice by certified mail to any address on the record; or

(3) if the owner's or interest-holder's address is not known, and is not on record pursuant to paragraph (1), or if the person's interest is not known, by publication in one issue of a newspaper of general circulation in the Republic of Palau.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 708], modified.

Notes
The Code Commission has made technical changes to the designations and cross-references within this section to conform to the Style of the Code.

§ 710. Commencement of proceedings.

(a) The Attorney General shall determine whether it is probable that the property is subject to forfeiture and, if so, shall initiate administrative or judicial proceedings against the property within forty-five (45) days of receipt of a written request for forfeiture from a seizing agency. If, on inquiry and examination, the Attorney General determines, with sole discretion, that the proceedings probably cannot be sustained or that justice does not require the institution of proceedings, the Attorney General shall notify the seizing agency, and as soon as practicable authorize the release of the seizure for forfeiture on the property or on any specified interest in it. A determination by the Attorney General to forego initiation of proceedings shall not be a bar to initiation of proceedings against the same property based on the same circumstances at a later time.

(b) If the property sought to be forfeited is real property, including fixtures, the Attorney General shall file a lis pendens with respect to the property but shall not be required to pay a filing fee.

(c) The Attorney General shall initiate administrative or judicial proceedings against the property within three years of the date the defendant was convicted for an offense.

(d) Where an administrative or judicial forfeiture proceeding is initiated before the defendant is convicted or sentenced, the court may defer passing sentence until resolution of the administrative or judicial forfeiture proceeding.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 709], modified.

§ 711. Administrative forfeiture.

The Attorney General may initiate administrative forfeiture of property other than real property, the estimated value of which is less than one hundred thousand dollars ($100,000), or of any vehicle or conveyance, regardless of value. Administrative forfeiture shall be processed in the following manner:

(1) The Attorney General shall file a petition with the Trial Division of the Supreme Court of the Republic of Palau, pursuant to rules adopted by the Attorney General pursuant to 6 PNC Chapter 1, the Administrative Procedures Act.

(2) The Attorney General shall give notice of pending forfeiture by making reasonable efforts to serve a copy of the petition in a manner provided in 17 PNC § 709(1) or 709(2) on all persons known to have an interest in the property, together with instructions for filing a claim or a petition for remission or mitigation.

(3) The Attorney General shall give notice of intention to forfeit the property administratively by publication in the manner provided in 17 PNC § 709(3). Notice by publication shall include:

(A) a description of the property;

(B) the estimated value of the property;

(C) the date and place of the seizure;

(D) the offense for which the property is subject to forfeiture;

(E) instructions for filing a claim or a petition for remission or mitigation; and

(F) notice that the property will be forfeited to the Republic of Palau if a claim or petition for remission or mitigation is not filed in substantial compliance with this section.

(4) Persons claiming an interest in the property may file either a petition for remission or mitigation of forfeiture, or a claim, but not both, with the Attorney General, within thirty days of notice by publication or receipt of written notice, whichever is earlier. The thirty-day time period prescribed herein is computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or holiday and then it is also excluded, and the thirty-day time period runs until the end of the next day that is not a Saturday, Sunday, or a holiday. "Holiday" includes any day designated as a holiday pursuant to 1 PNC Chapter 7 or pursuant to Executive Order.

(5) Any person claiming seized property may seek remission or mitigation of the forfeiture by timely filing a petition with the Attorney General. A petition for remission or mitigation shall not be used to challenge the sufficiency of the evidence to support the forfeiture or the actions of any government official but shall presume a valid forfeiture and ask the Attorney General to invoke the executive power to pardon the property, in whole or in part. The petition shall be signed by the petitioner and sworn on oath before a notary public and shall contain the following:

(A) a reasonably complete description of the property;

(B) A statement of the interest of the petitioner in the property, as owner or interest-holder that may be supported by bills of sale, contracts, or mortgages, or other documentary evidence; and

(C) facts and circumstances sufficient to show whether the petitioner:

(i) owns or holds an interest in the seized property as defined by 17 PNC § 702;

(ii) had any knowledge that the property was or would be involved in any violation of the law;

(iii) had any knowledge of the particular violation that subjected the property to seizure and forfeiture;

(iv) had any knowledge that the user of the property had any criminal record, including arrests, except when the person was acquitted or the charges dismissed due to lack of evidence, for the violation that subjected the property to seizure and forfeiture or for any crime that is similar in nature.

(D) any subsequent pleadings or written communications alleging matters pertaining to subparagraph (B) or (C) of this paragraph must also be signed by the petitioner and sworn on oath, subject to penalty of perjury, before a notary public.

(6) If the Attorney General, with sole discretion, determines that remission is not warranted, the Attorney General may discretionarily mitigate the forfeiture where the petitioner has not met the minimum requirements for remission but where there are

present other extenuating circumstances indicating that some relief should be granted to avoid extreme hardship. Mitigation may also be granted where the minimum requirements for remission have been met but the overall circumstances are such that the Attorney General determines that complete relief is not warranted. Mitigation shall take the form of a money penalty imposed upon the petitioner that shall be deposited into the Forfeited Property Fund established under 17 PNC § 717. Extenuating circumstances include:

(A) language or culture barrier;

(B) humanitarian factors such as youth or extreme age;

(C) presence of physical or mental disease, disorder, or defect;

(D) limited or peripheral criminal culpability;

(E) cooperation with the seizing agency or the Attorney General; and

(F) any contributory error on the part of government officials.

(7) It shall be the duty of the Attorney General to inquire into the facts and circumstances alleged in a petition for remission or mitigation of forfeiture. However, no petitioner is entitled to a hearing on the petition for remission or mitigation. Hearings, if any, shall be held at the discretion of the Attorney General.

(8) The Attorney General shall provide the seizing agency and the petitioner a written decision on each petition for remission or mitigation within sixty days of receipt of the petition unless the circumstances of the case require additional time, in which case the Attorney General shall notify the petitioner in writing and with specificity within the sixty-day period that the circumstances of the case require additional time and further notify the petitioner of the expected decision date.

(9) Any person claiming seized property may seek judicial review of the seizure and proposed forfeiture by timely filing with the Attorney General a claim and cost bond to the Republic of Palau in the amount of ten per cent (10%) of the estimated value of the property or in the sum of two thousand five hundred dollars ($2,500), whichever is greater, with sureties to be approved by the Attorney General, upon condition that if the claimant fails to prove that claimant's interest is exempt from forfeiture under 17 PNC § 705, the claimant shall pay the Republic of Palau's costs and expenses, including reasonable attorneys fees incurred in connection with a judicial proceeding. The claim shall be signed by the claimant and sworn on oath before a notary public and shall comply with the requirements of 17 PNC § 713(e). Upon receipt of the claim and bond, the Attorney General may discretionarily continue to seek forfeiture by petitioning the Trial Division of the Supreme Court for forfeiture of the property within forty-five (45) days of receipt of notice that a proper claim and bond has been filed. The Attorney General may also elect to honor the claim in which case the Attorney General shall notify the seizing agency and authorize the release of the seizure for forfeiture on the property or on any specified interest in it.

(10) If a judicial forfeiture proceeding is instituted subsequent to notice of administrative forfeiture pursuant to paragraph (9), no duplicate or repetitive notice shall be required. The judicial proceeding, if any, shall adjudicate all timely filed claims. At the judicial proceeding, the claimant may testify, present evidence and witnesses on the claimant's behalf, and cross-examine witnesses who appear at the hearing. The Republic of Palau

may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. The Republic of Palau has the initial burden of showing by a preponderance of the evidence that the claimant's interest in the property is subject to forfeiture. On such a showing by the Republic of Palau, the claimant has the burden of showing by a preponderance of the evidence that the claimant's interest in the property is not subject to forfeiture.

(11) In the event a claim has not been filed in substantial compliance with this section, or if the Attorney General determines that remission or mitigation is not warranted, the Attorney General shall order forfeited all property seized for forfeiture. In the event the Attorney General determines that remission or mitigation is warranted, the Attorney General shall notify the seizing agency and order the release of the seizure for forfeiture on the property or on any specified interest in it.

(12) The Attorney General shall promulgate rules and regulations to effect the purposes of this Act pursuant to 6 PNC Chapter 1, the Administrative Procedures Act. Such rules and regulations shall have the force and effect of law.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 710], modified.

Notes
The Code Commission has made technical changes to the designations and cross-references within this section to conform to the Style of the Code. The Code Commission has designated the undesignated text following paragraph (5)(C)(iv) as subparagraph (D).

§ 712. Judicial forfeiture proceedings; general.

(a) In any judicial or administrative proceeding pursuant to this chapter, the court, on application of the Republic of Palau, may enter any restraining order or injunction, require the execution of satisfactory performance bonds, create receiverships, appoint conservators, appraisers, accountants or trustees, or take any other action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this chapter, including a warrant for its seizure, whether before or after the filing of a petition for forfeiture or complaint or information.

(b) If property is seized for forfeiture without a seizure warrant, a prior judicial order of forfeiture, or a hearing pursuant to 17 PNC § 714, a court, on an application filed by an owner or interest-holder within fifteen days after notice of its seizure for forfeiture or actual knowledge of it, whichever is earlier, and complying with the requirements for claims in 17 PNC § 713, may issue an order to show cause to the seizing agency, with thirty days notice to the Attorney General, for a hearing on the issue of whether probable cause for forfeiture of the applicant's interest then exists, provided that, the order to show cause shall be set aside upon the filing of a petition for either administrative or judicial forfeiture prior to the hearing, in which event forfeiture proceedings shall be in accordance with this chapter.

(c) There shall be a rebuttable presumption that any property of a person is subject to forfeiture under this chapter if the Republic of Palau establishes, by the standard of proof applicable to that proceeding, all of the following:

(1) that the person has engaged in criminal conduct for which property is subject to forfeiture;

(2) that the property was acquired by the person during the period of the criminal conduct or within a reasonable time after that period; and

(3) that there was no likely source for the property other than the criminal conduct giving rise to forfeiture.

(d) A finding that property is the proceeds of criminal conduct giving rise to forfeiture does not require proof that the property is the proceeds of any particular exchange or transaction.

(e) A defendant convicted in any criminal proceeding shall be precluded from subsequently denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding pursuant to this chapter. For the purposes of this chapter, a conviction may result from a verdict or plea, including a no contest plea, or deferred acceptance of guilty plea, or no contest plea.

(f) An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this chapter.

(g) In any judicial forfeiture proceeding pursuant to this chapter, if a defense is based on an exemption provided for in this chapter, the burden of proving the existence of the exemption is on the claimant or party raising the defense, and it is not necessary to negate the exemption in any petition, application, complaint or information.

(h) For good cause shown, on motion by the Attorney General, the court may stay discovery against the Republic of Palau in civil forfeiture proceedings prior to trial on a criminal information arising from the same conduct and against a claimant who is a defendant in the criminal proceeding after making provision to prevent loss to any party resulting from the delay. The stay provided by this subsection shall not be available pending appeal of any order or judgment in the criminal proceeding.

(i) The court shall receive and consider, at any hearing held pursuant to this chapter, except the hearing on claims pursuant to 17 PNC §§ 713(d) through (h) and 714(g), evidence and information that would be admissible at a probable cause hearing.

(j) All property, including all interest in such property, declared forfeited under this chapter vests in the Republic of Palau on the commission of the act or omission giving rise to forfeiture under this chapter together with the proceeds of the property after the act or omission. Any property or proceeds transferred to any person after the act or omission are subject to forfeiture and thereafter shall be ordered forfeited unless the transferee claims and establishes in a hearing pursuant to this chapter the showings set out in 17 PNC § 705.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 711], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 713. Judicial in rem forfeiture proceedings; judicial forfeiture proceedings against property.

(a) If a forfeiture is authorized by law, it shall be ordered by a court on an action in rem brought by the Attorney General on a verified petition for forfeiture filed in the criminal or civil division of the Supreme Court.

(b) A civil in rem action may be brought in addition to or in lieu of the civil and criminal in personam forfeiture procedures set forth in 17 PNC §§ 714 and 715 or the administrative forfeiture as set forth in 17 PNC § 711. Judicial in rem forfeiture proceedings are in the nature of an action in rem and are governed by the rules of civil procedure whether brought in the criminal or civil division of the Supreme Court, unless a different procedure is provided by law.

(c) On the filing of a civil in rem action by the Republic of Palau in the Supreme Court the Clerk of the Court in which the action is filed shall give notice of the filing of the action in the manner provided by 17 PNC § 709 unless the files of the Clerk of the Court reflect that notice has previously been given.

(d) An owner of or interest-holder in the property may file a claim against the property, within thirty days after the notice, for a hearing to adjudicate the validity of the claimed interest in the property. The hearing shall be held by the court without a jury.

(e) The claim shall be signed by the claimant and sworn on oath before a notary public and shall set forth all the following:

(1) the name of the claimant;

(2) the address at which the claimant will accept future mailings from the court or the Attorney General;

(3) the nature and extent of the claimant's interest in the property;

(4) the time, transferor and circumstances of the claimant's acquisition of the interest in the property;

(5) the specific provisions of this chapter relied on in asserting that the property seized for forfeiture is not subject to forfeiture;

(6) facts supporting each assertion that the property is not subject to forfeiture;

(7) any additional facts supporting the claimant's claim; and

(8) the precise relief sought.

(f) Copies of the claim shall be mailed to the seizing agency and to the Attorney General. One extension of thirty days for filing of the claim may be granted upon a written request demonstrating good cause provided that the request is received within the thirty-day period for filing of a claim.

(g) The hearing on the claim, to the extent practicable and consistent with the interest of justice, shall be held within sixty days after the filing of the petition. The court may consolidate the hearing on the claim with a hearing on any other claim concerning the same property.

(h) At the hearing, the claimant may testify, present evidence and witnesses on the claimant's behalf, and cross-examine witnesses who appear at the hearing. The Republic of Palau may

present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing.

(i) The Republic of Palau has the initial burden of showing by a preponderance of the evidence that the claimant's interest in the property is subject to forfeiture. On such a showing by the Republic, the claimant has the burden of showing by a preponderance of the evidence that the claimant's interest in the property is not subject to forfeiture.

(j) In accordance with its findings at the hearing, the court shall order an interest in property returned or conveyed to the claimant, if any, who has established by a preponderance of the evidence that the claimant's interest is not subject to forfeiture. The court shall order all other property, including all interests in the property, forfeited to the Republic of Palau and proceed pursuant to 17 PNC §§ 716 and 717.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 712], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 714. Judicial in personam forfeiture proceedings; judicial forfeiture proceedings against a specific person.

(a) If a forfeiture is authorized by law, it shall be ordered by a court on a petition for forfeiture filed by the Attorney General in an in personam civil or criminal action. In any civil in personam action brought under this section, the owner or interest-holder may testify, present evidence and witnesses on the owner or interest-holder's behalf, and cross-examine witnesses who appear at the hearing. The Republic of Palau may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. The Republic of Palau has the initial burden of showing by a preponderance of the evidence that the owner or interest-holder's interest in the property is subject to forfeiture. On such a showing by the Republic, the owner or interest-holder has the burden of showing by a preponderance of the evidence that the owner or interest-holder's interest in the property is not subject to forfeiture.

(b) In any proceeding pursuant to this section, the court, on application of the Attorney General, may enter any order authorized by 17 PNC § 712 or take any other action to seize, secure, maintain or preserve the availability of property subject to forfeiture under this chapter, including a warrant for its seizure, whether before or after the filing of a petition for forfeiture or criminal information.

(c) A temporary restraining order under this section may be entered on petition of the Republic of Palau without notice or an opportunity for a hearing if the Republic of Palau demonstrates that:

(1) there is probable cause to believe that the property with respect to which the order is sought would, in the event of final judgment or conviction, be subject to forfeiture; and

(2) provision of notice will jeopardize the availability of the property subject to forfeiture.

(d) A temporary restraining order expires within fifteen days after the date on which it is entered unless the party against whom it is entered consents to an extension for a longer period or unless after commencing a hearing the court enters or is considering a preliminary injunction.

(e) Notice of the issuance of the temporary restraining order and an opportunity for a hearing shall be afforded to persons known to have an interest in the property. The hearing, however, is limited to the issues required to be demonstrated in subsection (c)(1) and (2) of this section.

(f) A hearing requested by any owner or interest-holder concerning a temporary restraining order entered under this section shall be held at the earliest practicable time and before the expiration of a temporary order.

(g) On a determination of liability or the conviction of a person for conduct giving rise to forfeiture under this title, the court shall enter a judgment of forfeiture of the property described in the petition for forfeiture, and shall also authorize the Attorney General, their agents or any other law enforcement officer to seize all property ordered forfeited that was not previously seized or is not then under seizure. Following the entry of an order declaring the property forfeited, the court, on application of the Republic of Palau, may enter any order authorized by 17 PNC § 712 or take any other action to protect the interest of the Republic of Palau or political subdivision thereof in the property ordered forfeited. The filing of the order of forfeiture in the appropriate public records perfects the interest of the Republic of Palau in the property described in the order as of the date that a notice of pending forfeiture was first filed in the records, which entitles the Republic of Palau to all rights of a secured party as to that property in addition to any other rights or remedies of the Republic in relation to the property. Any income accruing to, or derived from, an enterprise or any interest in an enterprise or other property interest that is forfeited under this chapter is also forfeited from the time of the conduct giving rise to forfeiture. Such income may be used pending procedures subsequent to a verdict or finding of liability to offset ordinary and necessary expenses of the enterprise or property as required by law or that are necessary to protect the interests of the Republic of Palau or political subdivision thereof.

(h) Procedures subsequent to the verdict or finding of liability and order of forfeiture shall be as follows:

(1) following the entry of an order of forfeiture, the Clerk of the Court shall give notice of pending forfeiture to owners and interest-holders who have not previously been given notice, if any, in the manner provided in 17 PNC § 709;

(2) any owner or interest-holder, other than a party or a defendant in the underlying in personam action, asserting an interest in property that has been ordered forfeited pursuant to such action, within thirty days after initial notice of pending forfeiture or after notice under paragraph (1) of this subsection, whichever is earlier, may file a claim as described in 17 PNC § 713(e), in the court for a hearing to adjudicate the validity of the person's claimed interest in the property;

(3) the hearing on the claim, to the extent practicable and consistent with the interest of justice, shall be held within sixty days after the order of forfeiture. The court may consolidate the hearing on the claim with a hearing on any other claim filed by a person other than a party or defendant in the underlying action and concerning the same property;

(4) the hearing shall be conducted in the manner provided for in rem judicial forfeiture actions including the provisions of 17 PNC § 713(g) and (h). In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the underlying civil or criminal action that resulted in the order of forfeiture; and

(5) in accordance with its findings at the hearing, the court may amend the order of forfeiture if it determines that any claimant has established by a preponderance of the evidence that the claimant has a legal interest in the property, and the claimant's interest is property designated as not subject to forfeiture by 17 PNC § 705.

(i) Except as provided in 17 PNC § 712(b) and subsection (g)(2) of this section, a person claiming an interest in property subject to forfeiture under this section may not:

(1) intervene in a trial or an appeal of a criminal or in personam civil case involving the forfeiture of such property; or

(2) commence or maintain any action against the Republic of Palau concerning the validity of the alleged interest other than as provided in this chapter.

(j) In order to facilitate the identification or location of property declared forfeited and to facilitate the disposition of filed or subsequent claims pursuant to this section the court, on application of the Republic of Palau, may order that the testimony of any witness relating to the property forfeited or alleged to be subject to forfeiture be taken by deposition and that any designated book, paper, document, record, recording, electronic or otherwise, or other material that is not privileged be produced at the same time and place and in the same manner as that provided for the taking of depositions under the rules of civil procedure.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 713], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The reference in subsection (i) to subsection (g)(2) is in the original language in RPPL 9-21 and the Code Commission notes that subsection (g) is not divided into paragraphs.

Supreme Court Cases
Ellender Ngirameketii v. ROP, 2022 Palau 9 ¶ 22 (App. Div.).

§ 715. Supplemental remedies.

(a) The court shall order the forfeiture of any other property of an in personam civil or criminal defendant up to the value of the subject property if any of the property subject to forfeiture:

(1) cannot be located;

(2) has been transferred or conveyed to, sold to, or deposited with a third party;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value by any act or omission of a defendant, or a defendant's agent or assignee;

(5) has been commingled with other property which cannot be divided without difficulty.

(b) In addition to any other remedy provided for by law, if property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the

filing of notice or provision of notice of pending forfeiture or after the filing and notice of a civil proceeding or criminal proceeding alleging forfeiture under this chapter, whichever is earlier, the Republic of Palau or seizing agency, on behalf of the Republic of Palau, may institute an action in the Trial Division of the Supreme Court against the person named in the filed notice or notice of pending forfeiture or the defendant in the civil proceeding or criminal proceeding, and the court shall enter final judgment against the person named in the filed notice or notice of pending forfeiture or the defendant in the civil proceeding or criminal proceeding in an amount equal to the fair market value of the property, together with reasonable investigative expenses and attorney fees. If a civil proceeding is pending, such action shall be filed only in the court where the civil proceeding is pending.

(c) This section does not limit the right of the Republic of Palau to obtain any order or injunction, receivership, writ, attachment, garnishment, or other remedy authorized under this chapter or appropriate to protect the interests of the Republic of Palau or available under other applicable law.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 714], modified.

§ 716. Disposition of claims by court.

(a) Following the court's disposition of all claims filed under this chapter, or if no such claims are filed, following the expiration of the period provided in this chapter for the filing of such claims, the Republic of Palau has clear title to property that is the subject of the in rem or in personam petition and the court shall so order. Title to the forfeited property and its proceeds is deemed to have vested in the Republic of Palau on the commission of the act or omission giving rise to the forfeiture.

(b) The court, on motion of the Attorney General, may release or convey forfeited personal property to an interest-holder who has satisfied both the Attorney General and the court that all of the following are true:

(1) the interest-holder has an interest that was acquired in the regular course of business as a financial institution and that is not subject to forfeiture pursuant to 17 PNC § 705;

(2) the amount of the interest-holder's encumbrance and the fair market value of the property are readily determinable and both amounts have been reasonably established by proof made available by the Attorney General to the court;

(3) there are no encumbrances on the property other than encumbrances held by the interest-holder seeking possession; and

(4) the interest-holder has satisfied the Republic of Palau's interest by tendering the fair market value of the property and the expenses of its sale or disposal by the interest-holder.

(c) Upon order of the court forfeiting the subject property the Attorney General may transfer good and sufficient title to any subsequent purchaser or transferee, and the title shall be recognized by all courts, by the Republic of Palau, and by all bureaus and agencies of the Republic of Palau and any political subdivision thereof.

(d) Upon entry of judgment for a claimant or claimants in any proceeding to forfeit property under this chapter such property or interest in property shall be returned or conveyed to the claimant or claimants designated by the court. If it appears that there was reasonable cause for the seizure for forfeiture or the filing of the complaint or information, the court shall cause a finding to be entered, and the claimant is not, in such case, entitled to costs or damages. Nor, in such case, is the person or seizing agency, or its agents, who made the seizure, or the Attorney General liable to suit or judgment on account of such seizure, suit, or prosecution.

(e) The court shall order any claimant who fails to establish that the claimant's entire interest is exempt from forfeiture under 17 PNC § 705 to pay the costs of any claimant who establishes that the entire interest is exempt from forfeiture under 17 PNC § 705, and the Republic of Palau's costs and expenses of the investigation and prosecution of the matter, including reasonable attorney fees.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 715], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format.

§ 717. Disposition of property forfeited.

(a) There is hereby established a Forfeited Property Fund within the National Treasury. There shall be placed in the Forfeited Property Fund:

(1) all property seized by order of forfeiture;

(2) any sums of money allocated to it by appropriation from the Olbiil Era Kelulau;

(3) any voluntary payment, grant or gift made for the purposes of the Forfeited Property Fund; and

(4) money paid to the Republic of Palau by a foreign country in connection with assistance provided by the Republic of Palau in relation to the recovery by that country of the proceeds of unlawful activity or the investigation or prosecution of unlawful activity.

(b) All property forfeited to the Republic of Palau under this chapter shall be transferred to the Attorney General who:

(1) shall transfer all currency to the Forfeited Property Fund;

(2) may sell forfeited property to the public by public sale; proceeds from the sale shall be transferred to the Forfeited Property Fund;

(3) may transfer property, other than currency, which shall be distributed in accordance with subsection (b) to any national government entity, state government entity, municipality, or law enforcement agency within the Republic of Palau;

(4) may sell or destroy all raw materials, products, and equipment of any kind used or intended for use in manufacturing, compounding, or processing a controlled substance;

(5) may compromise and pay valid claims against property forfeited pursuant to this chapter; or

(6) may make any other disposition of forfeited property as authorized by law.

(c) All forfeited property and the sale proceeds thereof, not previously transferred pursuant to subsection (b)(3) of this section, shall, after payment of expenses of administration and sale, be distributed as follows:

(1) fifty percent (50%) shall be distributed to the unit or units of the Republic of Palau, or state or local government whose officers or employees conducted the investigation and caused the arrest of the person whose property was forfeited or seizure of the property for forfeiture;

(2) twenty-five percent (25%) shall be distributed to the Attorney General who instituted the action producing the forfeiture; and

(3) twenty-five percent (25%) shall be deposited into the Forfeited Property Fund established by this chapter.

(d) Property and money distributed to units of the Republic of Palau, or state and local government shall be used for law enforcement purposes, and shall complement but not supplant the funds regularly appropriated for such purposes.

(e) The funds maintained in the Forfeited Property Fund shall be expended by the Attorney General for the following purposes:

(1) the payment of any expenses necessary to seize, detain, appraise, inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited pursuant to this chapter or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property and such contract services and payments to reimburse any national or state agency for any expenditures made to perform the foregoing functions;

(2) the payment of awards for information or assistance leading to a civil or criminal proceeding;

(3) the payment of supplemental sums to national, state or foreign agencies for law enforcement purposes; and

(4) the payment of expenses arising in connection with programs for training and education of law enforcement officers.

(f) The Attorney General shall promulgate rules and regulations pursuant to 6 PNC Chapter 1, the Administrative Procedures Act, concerning the disposition of property, the use of the fund, and paying valid claims against property forfeited pursuant to this chapter.

(g) Not less than thirty days prior to the close of each fiscal year, the Attorney General shall provide a report to the President of the Republic of Palau and the Olbiil Era Kelulau on the status of the Forfeited Property Fund. The report shall include, but is not limited to:

(1) the total amount and type of property seized by law enforcement agencies;

(2) the total number of administrative and judicial actions filed by the office of the Attorney General and the disposition thereof;

(3) the total number of claims or petitions for remission or mitigation filed in administrative actions and the dispositions thereof;

(4) the total amount and type of property forfeited and the sale proceeds thereof;

(5) the total amount and type of property distributed to units of national or state government;

(6) the amount of money deposited into the Forfeited Property Fund; and

(7) the amount of money expended by the Attorney General from the Forfeited Property Fund and the reason for the expenditures.

(h) The Forfeited Property Fund shall be subject to annual audit pursuant to 40 PNC Chapter 2, the Public Auditing Act.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 716], modified.

Notes
The Code Commission notes that in subsection (b)(3) the reference to "subsection (b)" is in the original RPPL 9-21.

§ 718. Limitation of actions.

Notwithstanding any other provision of law, forfeiture proceedings under this chapter may be commenced at any time within the period in which a criminal proceeding may be instituted for a covered offense pursuant to 17 PNC § 107 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 717], modified.

Notes
Section referenced in this section have been renumbered to conform with the Code numbering format.

§ 719. Victim restitution.

Nothing herein precludes a court from ordering restitution or reparation to a victim by the defendant as part of a sentence imposed for a violation of a covered offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 718], modified.

§ 720. Construction.

It is the intent of the legislature that this chapter be liberally construed so as to give effect to the purposes of this chapter.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 7 § 719], modified.

DIVISION 2 — INCHOATE CRIMES

Division Notes

Notes
RPPL 9-21 § 5 [Division Two] contains "Introductory Commentary" as follows: "This division deals with conduct that is designed to culminate in the commission of a substantive offense but fails to do so. The failure may be due to apprehension or intervention by law enforcement officials or it may be due to some other miscalculation on the part of the defendant. In this sense attempt, solicitation, and conspiracy are predominantly inchoate in nature and are grouped in this chapter for unified and integrated treatment."

Chapter 8 — Criminal Attempt

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 8 read §§ 800–802, which has been renumbered to §§ 801–803 to conform with the Style of the Code.

§ 801. Criminal attempt.

(a) A person is guilty of an attempt to commit a crime if the person:
  (1) intentionally engages in conduct that would constitute the crime if the attendant circumstances were as the person believes them to be; or
  (2) intentionally engages in conduct that, under the circumstances as the person believes them to be, constitutes a substantial step in a course of conduct intended to culminate in the person's commission of the crime.

(b) When causing a particular result is an element of the crime, a person is guilty of an attempt to commit the crime if, acting with the state of mind required to establish liability with respect to the attendant circumstances specified in the definition of the crime, the person intentionally engages in conduct that is a substantial step in a course of conduct intended or known to cause such a result.

(c) Conduct shall not be considered a substantial step under this section unless it is strongly corroborative of the defendant's criminal intent.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 801 and RPPL 9-21 § 5 [Chapter 8 § 800], modified, adds section.

§ 802. Criminal attempt; attempting to aid another.

(a) A person who engages in conduct intended to aid another to commit a crime is guilty of an attempt to commit the crime, although the crime is not committed or attempted by the other person, provided his or her conduct would establish his or her complicity under 17 PNC §§ 223 through 227 of this Penal Code if the crime were committed or attempted by the other person.

(b) It is not a defense to a prosecution under this section that under the circumstances it was impossible for the defendant to aid the other person in the commission of the offense, provided he or she could have done so had the circumstances been as he or she believed them to be.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 8 § 801], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 803. Grading of criminal attempt.

An attempt to commit a crime is an offense of the same class and grade as the most serious offense that is attempted.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 8 § 802], modified.

Chapter 9 — Criminal Solicitation

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 9 read §§ 900–902, which has been renumbered to §§ 901–903 to conform with the Style of the Code.

§ 901. Criminal solicitation.

(a) A person is guilty of criminal solicitation if, with the intent to promote or facilitate the commission of a crime, the person commands, encourages, or requests another person to engage in conduct or cause the result specified by the definition of an offense or to engage in conduct that would be sufficient to establish complicity in the specified conduct or result.

(b) It is immaterial under subsection (a) that the defendant fails to communicate with the person the defendant solicits if the defendant's conduct was designed to effect such communication.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 901 andRPPL 9-21 § 5 [Chapter 9 § 900], modified, adds section.

§ 902. Immunity, irresponsibility, or incapacity of a party to criminal solicitation.

(a) A person shall not be liable under 17 PNC § 901 for criminal solicitation of another if under 17 PNC §§ 225(1) and (2) and 226(1) of this Penal Code he or she would not be legally accountable for the conduct of the other person.

(b) It is not a defense to a prosecution under 17 PNC § 901 that the person solicited could not be guilty of committing the crime because:

(1) he or she is, by definition of the offense, legally incapable in an individual capacity of committing the offense solicited;

(2) he or she is penally irresponsible or has immunity to prosecution or conviction for the commission of the crime;

(3) he or she is unaware of the criminal nature of the conduct in question or of the defendant's criminal intent; or

(4) he or she does not have the state of mind sufficient for the commission of the offense in question.

(c) It is not a defense to a prosecution under 17 PNC § 901 that the defendant is, by definition of the offense, legally incapable in an individual capacity of committing the offense solicited.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 9 § 901], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 903. Grading of criminal solicitation.

Criminal solicitation is an offense one class or grade, as the case may be, less than the offense solicited; provided that criminal solicitation to commit murder in any degree is a class A felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 9 § 902], modified.

Chapter 10 — Criminal Conspiracy

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 10 read §§ 1000–1006, which has been renumbered to §§ 1001–1007 to conform with the Style of the Code.

§ 1001. Criminal conspiracy.

A person is guilty of criminal conspiracy if, with intent to promote or facilitate the commission of a crime:

(1) he or she agrees with one or more persons that they or one or more of them will engage in or solicit the conduct or will cause or solicit the result specified by the definition of the offense; and

(2) he or she, or another person with whom he or she conspired commits an overt act in pursuance of the conspiracy.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1001 andRPPL 9-21 § 5 [Chapter 10 § 1000], modified, adds section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Supreme Court Cases
Republic of Palau v. Kangichi, 2019 Palau 2 ¶ 1 n.1 (App. Div.).

§ 1002. Scope of conspiratorial relationship.

If a person guilty of criminal conspiracy, as defined in 17 PNC § 1001, knows that a person with whom he or she conspires to commit a crime has conspired with another person or persons to commit the same crime, he or she is guilty of conspiring to commit the crime with such other person or persons, whether or not he or she knows their identity.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 10 § 1001], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 1003. Conspiracy with multiple criminal objectives.

If a person conspires to commit a number of crimes, the person is guilty of only one conspiracy if the multiple crimes are the object of the same agreement or continuous conspiratorial relationship.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 10 § 1002], modified.

§ 1004. Immunity, irresponsibility, or incapacity of a party to criminal conspiracy.

(a) A person shall not be liable under 17 PNC § 1001 for criminal conspiracy if under 17 PNC §§ 225(1) and (2) and 226(1) of this Penal Code he or she would not be legally accountable for the conduct of the other person.

(b) It is not a defense to a prosecution under 17 PNC § 1001 that a person with whom the defendant conspires could not be guilty of committing the crime because:

(1) he or she is, by definition of the offense, legally incapable in an individual capacity of committing the offense;

(2) he or she is penally irresponsible or has immunity to prosecution or conviction for the commission of the crime;

(3) he or she is unaware of the criminal nature of the conduct in question or of the defendant's criminal intent; or

(4) he or she does not have the state of mind sufficient for the commission of the offense in question.

(c) It is not a defense to a prosecution under 17 PNC § 1001 that the defendant is, by definition of the offense, legally incapable in an individual capacity of committing the offense that is the object of the conspiracy.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 10 § 1003], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 1005. Venue in criminal conspiracy prosecutions.

For purposes of determining venue in a prosecution for criminal conspiracy, a criminal conspiracy is committed in the jurisdiction in which the defendant enters into the conspiracy and in the jurisdiction in which the defendant or person with whom the defendant conspires does an overt act.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 10 § 1004], modified.

§ 1006. Duration of conspiracy.

For purposes of 17 PNC § 107, the following apply:

(1) Conspiracy is a continuing course of conduct that terminates when the crime or crimes which are its object are committed or the agreement that they be committed is abandoned by the defendant and by those with whom the defendant conspired.

(2) It is prima facie evidence that the agreement has been abandoned if neither the defendant nor anyone with whom the defendant conspired did any overt act in pursuance of the conspiracy during the applicable period of limitation.

(3) If an individual abandons the agreement, the conspiracy is terminated as to that individual only if and when the individual advises those with whom the individual conspired of the individual's abandonment; or the individual informs the law-enforcement authorities of the existence of the conspiracy and of the individual's participation therein.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 10 § 1005], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 1007. Grading of criminal conspiracy.

(a) A conspiracy to commit murder in any degree is a class A felony.

(b) A conspiracy to commit any of the offenses set out in Chapter 21 of this title is a class A felony.

(c) Except as provided in subsection (a) and (b), a conspiracy to commit a class A felony is a class B felony.

(d) Except as provided in subsections (a) and (b), conspiracy to commit a crime is an offense of the same class and grade as the most serious offense that is an object of the conspiracy.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 10 § 1006], modified.
RPPL 11-28 § 9, modified, amends section.

Chapter 11 — General Provisions Relating to Inchoate Offenses

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 11 read §§ 1100–1101, which has been renumbered to §§ 1101–1102 to conform with the Style of the Code.

§ 1101. Renunciation of attempt, solicitation, or conspiracy; affirmative defense.

(a) In a prosecution for criminal attempt, it is an affirmative defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of the defendant's criminal intent, gave timely warning to law-enforcement authorities or otherwise made a reasonable effort to prevent the conduct or result that is the object of the attempt.

(b) In a prosecution for criminal solicitation, it is an affirmative defense that the defendant, under circumstances manifesting a complete and voluntary renunciation of the defendant's criminal intent:

(1) first notified the person solicited of the defendant's renunciation;

(2) gave timely warning to law-enforcement authorities or otherwise made a reasonable effort to prevent the conduct or result solicited.

(c) In a prosecution for criminal conspiracy, it is an affirmative defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of the defendant's criminal intent, gave timely warning to law-enforcement authorities or otherwise made a reasonable effort to prevent the conduct or result that is the object of the conspiracy.

(d) A renunciation is not "voluntary and complete" within the meaning of this section if it is motivated in whole or in part by:

(1) a belief that circumstances exist that increase the probability of detection or apprehension of the accused or another participant in the criminal enterprise, or that render more difficult the accomplishment of the criminal purpose; or

(2) a decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar objective.

(e) A warning to law-enforcement authorities is not "timely" within the meaning of this section unless the authorities, reasonably acting upon the warning, would have the opportunity to prevent the conduct or result. An effort is not "reasonable" within the meaning of this section unless the defendant, under reasonably foreseeable circumstances, would have prevented the conduct or result.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1101 and RPPL 9-21 § 5 [Chapter 11 § 1100], modified, adds section.

§ 1102. Multiple convictions.

A person may not be convicted of more than one offense defined by this chapter for conduct designed to commit or culminate in the commission of the same substantive crime.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 11 § 1101], modified.

DIVISION 3 — OFFENSES AGAINST THE PERSON

Chapter 12 — General Provisions Relating to Offenses Against the Person

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 12 read § 1200, which has been renumbered to § 1201 to conform with the Style of the Code.

§ 1201. Definitions of terms in this division.

In this division, unless a different meaning plainly is required:

(1) "bodily injury" means physical pain, illness, or any impairment of physical condition.

(2) "compulsion" means absence of consent, or a threat, express or implied, that places a person in fear of public humiliation, property damage, or financial loss.

(3) "dangerous instrument" means any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury.

(4) "deviate sexual intercourse" means any act of sexual gratification between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.

(5) "emergency worker" means any:

(A) law enforcement officer, including but not limited to any police officer, public safety officer, marshal, parole or probation officer, or any other officer of any state or military agency authorized to exercise law enforcement or police powers;

(B) firefighter, emergency medical services personnel, emergency medical technician, ambulance crewmember, or any other emergency response personnel;

(C) person engaged in civil defense functions or disaster relief as authorized by 34 PNC Chapter 53.

(6) "incompetent person" means a person who because of disease, disorder or defect is unable to care for himself or herself.

(7) "labor" means work of economic or financial value.

(8) "married" includes persons legally married or solemnized in accordance with recognized custom, and a male and female living together as husband and wife regardless of their legal status, but does not include spouses living apart.

(9) "mentally defective" means a person suffering from a disease, disorder, or defect that renders the person incapable of appraising the nature of the person's conduct.

(10) "mentally incapacitated" means a person rendered temporarily incapable of appraising or controlling the person's conduct as a result of the influence of a substance administered to the person without the person's consent.

(11) "person" means a human being who has been born and is alive.

(12) "physically helpless" means a person who is unconscious or for any other reason physically unable to communicate unwillingness to an act.

(13) "relative" means parent, ancestor, brother, sister, uncle, aunt, or legal guardian.

(14) "restrain" means to restrict a person's movement in such a manner as to interfere substantially with the person's liberty:

(A) by means of force, threat, or deception; or

(B) if the person is under the age of eighteen or incompetent, without the consent of the relative, person, or institution having lawful custody of the person.

(15) "serious bodily injury" means bodily injury that creates a substantial risk of death or that causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(16) "services" means a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Prostitution-related and obscenity-related activities as set forth in 17 PNC Division 7 of this Penal Code are forms of "services" under this section. Nothing in this chapter shall be construed to legitimize or legalize prostitution.

(17) "sexual contact" means any touching, other than acts of "sexual penetration", of the sexual or other intimate parts of a person not married to the actor, or of the sexual or other intimate parts of the actor by the person, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts.

(18) "sexual penetration" means:

(A) vaginal intercourse, anal intercourse, fellatio, deviate sexual intercourse, or any intrusion of any part of a person's body or of any object into the genital or anal opening of another person's body; it occurs upon any penetration, however slight, but emission is not required. As used in this definition, "genital opening" includes the anterior surface of the vulva or labia majora; or

(B) cunnilingus or anilingus, whether or not actual penetration has occurred. For purposes of this chapter, each act of sexual penetration shall constitute a separate offense.

(19) "strong compulsion" means the use of or attempt to use one or more of the following to overcome a person:

(A) a threat, express or implied, that places a person in fear of bodily injury to the individual or another person, or in fear that the person or another person will be kidnapped;

(B) a dangerous instrument; or

(C) physical force.

(20) "substantial bodily injury" means bodily injury which causes:

(A) a major avulsion, laceration, or penetration of the skin;

(B) a burn of at least second degree severity;

(C) a bone fracture;

(D) a serious concussion; or

(E) a tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1201 to 1205 and RPPL 9-21 § 5 [Chapter 12 § 1200], modified, adds section.

Chapter 13 — Criminal Homicide

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 13 read §§ 1300–1309, which has been renumbered to §§ 1301–1310 to conform with the Style of the Code.

§ 1301. Murder in the first degree.

(a) A person commits the offense of murder in the first degree if the person intentionally or knowingly causes the death of:

(1) more than one person in the same or separate incident;

(2) a law enforcement officer, judge, or prosecutor arising out of the performance of official duties;

(3) a person known by the defendant to be a witness in a criminal prosecution and the killing is related to the person's status as a witness;

(4) a person by a hired killer, in which event both the person hired and the person responsible for hiring the killer shall be punished under this section;

(5) a person while the defendant was imprisoned;

(b) Murder in the first degree is a felony for which the defendant shall be sentenced to imprisonment as provided in 17 PNC § 661.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1301 to 1302 and RPPL 9-21 § 5 [Chapter 13 § 1300], modified, adds section.

Notes
The section referenced in this section has been renumbered to conform with the Code numbering format.

§ 1302. Murder in the second degree.

(a) Except as provided in Section 1301, a person commits the offense of murder in the second degree if the person intentionally or knowingly causes the death of another person.

(b) Murder in the second degree is a felony for which the defendant shall be sentenced to imprisonment as provided in 17 PNC § 661.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 13 § 1301], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

Supreme Court Cases
Kloulubak v. ROP, 2017 Palau 16 ¶¶ 1, 3 (App. Div.).

§ 1303. Manslaughter.

(a) A person commits the offense of manslaughter if:

(1) the person recklessly causes the death of another person; or

(2) the person intentionally causes another person to commit suicide.

(b) In a prosecution for murder or attempted murder in the first and second degrees it is an affirmative defense, which reduces the offense to manslaughter or attempted manslaughter, that the defendant was, at the time the defendant caused the death of the other person, under the influence of extreme mental or emotional disturbance for which there is a reasonable explanation. The reasonableness of the explanation shall be determined from the viewpoint of a reasonable person in the circumstances as the defendant believed them to be.

(c) Manslaughter is a class A felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 13 § 1302], modified.

Supreme Court Cases
Tewid v. Republic of Palau, 2026 Palau 2 ¶ 12 (App. Div.).
Ngirakesiil v. ROP, 2021 Palau 23 ¶¶ 6, 19, 25, 30 (App. Div.).
Kloulubak v. ROP, 2017 Palau 16 ¶¶ 1, 3, 9 (App. Div.).

§ 1304. Negligent homicide in the first degree.

(a) A person is guilty of the offense of negligent homicide in the first degree if that person causes the death of another person by the operation of a vehicle in a negligent manner while under the influence of drugs or alcohol.

(b) Negligent homicide in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 13 § 1303], modified.

§ 1305. Negligent homicide in the second degree.

(a) A person is guilty of the offense of negligent homicide in the second degree if that person causes the death of another person by the operation of a vehicle in a negligent manner.

(b) Negligent homicide in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 13 § 1304], modified.

§ 1306. Negligent homicide in the third degree.

(a) A person is guilty of the offense of negligent homicide in the third degree if that person causes the death of another person by the operation of a vehicle in a manner that is simple negligence.

(b) "Simple negligence" as used in this section:

(1) A person acts with simple negligence with respect to the person's conduct when the person should be aware of a risk that the person engages in that conduct.

(2) A person acts with simple negligence with respect to attendant circumstances when the person should be aware of a risk that those circumstances exist.

(3) A person acts with simple negligence with respect to a result of the person's conduct when the person should be aware of a risk that the person's conduct will cause that result.

(4) A risk is within the meaning of this subsection if the person's failure to perceive it, considering the nature and purpose of the person's conduct and the circumstances known to the person, involves a deviation from the standard of care that a law-abiding person would observe in the same situation.

(c) Negligent homicide in the third degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 13 § 1305], modified.

§ 1307. Negligent injury in the first degree.

(a) A person is guilty of the offense of negligent injury in the first degree if that person causes serious bodily injury to another person by the operation of a motor vehicle in a negligent manner.

(b) Negligent injury in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 13 § 1306], modified.

§ 1308. Negligent injury in the second degree.

(a) A person is guilty of the offense of negligent injury in the second degree if that person causes substantial bodily injury to another person by the operation of a motor vehicle in a negligent manner.

(b) Negligent injury in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 13 § 1307], modified.

§ 1309. Duty to report wounds or deaths.

(a) A person who gains knowledge of a death or injury resulting from a knife wound, bullet wound, powder burn, or sustained in a suspicious or unusual manner or under conditions suggesting violence or poisoning, shall make a report thereof immediately upon obtaining such knowledge, to the nearest law enforcement official or to any police officer or to the Director of the Bureau of Public Safety. Said report shall state:

(1) the name and location of injured or deceased person;

(2) the date of injury or death, or date of gaining knowledge thereof by informant, if date of injury or death is unknown;

(3) the cause and manner of injury or death;

(4) the name of the person causing injury or death, if known.

(b) No person making a report in compliance with this section shall be deemed to have violated the confidential relationship existing between doctor and patient.

(c) Any person violating subsection (a) of this section shall be guilty of a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 13 § 1308], modified.

§ 1310. Abortion.

(a) A person is guilty of the offense of abortion if that person intentionally causes a woman to miscarry or prematurely deliver a fetus.

(b) Abortion is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 13 § 1309], modified.

Chapter 14 — Criminal Assaults and Related Offenses

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 14 read §§ 1400–1409, which has been renumbered to §§ 1401–1410 to conform with the Style of the Code.

§ 1401. Assault in the first degree.

(a) A person commits the offense of assault in the first degree if the person intentionally or knowingly causes serious bodily injury to another person.

(b) Assault in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1401 and RPPL 9-21 § 5 [Chapter 14 § 1400], modified, adds section.

Notes
In the original statute section numbering in Chapter 14 read §§ 1400 to 1409, which has been renumbered to §§ 1401–1410 to conform with the Code numbering format.

Supreme Court Cases
Etpison v. ROP, 2017 Palau 32 ¶ 1 (App. Div.).

§ 1402. Assault in the second degree.

(a) A person commits the offense of assault in the second degree if:

(1) the person intentionally or knowingly causes substantial bodily injury to another;

(2) the person recklessly causes serious or substantial bodily injury to another;

(3) the person intentionally or knowingly causes bodily injury to a correctional worker, as defined in 17 PNC § 4012(b) of this Penal Code, who is engaged in the performance of duty or who is within a correctional facility; or

(4) the person intentionally or knowingly causes bodily injury to another with a dangerous instrument.

(b) Assault in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 14 § 1401], modified.

Notes
The section referenced in this section has been renumbered to conform with the Code numbering format.

Supreme Court Cases
Tewid v. Republic of Palau, 2026 Palau 2 ¶ 12 (App. Div.).

§ 1403. Assault in the third degree.

(a) A person commits the offense of assault in the third degree if the person:

(1) intentionally, knowingly, or recklessly causes bodily injury to another person; or

(2) negligently causes bodily injury to another person with a dangerous instrument.

(b) Assault in the third degree is a misdemeanor unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 14 § 1402], modified.

§ 1404. Assault against a law enforcement officer in the first degree.

(a) A person commits the offense of assault against a law enforcement officer in the first degree if the person:

(1) intentionally or knowingly causes bodily injury to a law enforcement officer who is engaged in the performance of duty; or

(2) recklessly or negligently causes, with a dangerous instrument, bodily injury to a law enforcement officer who is engaged in the performance of duty.

(b) Assault of a law enforcement officer in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 14 § 1403], modified.

§ 1405. Assault against a law enforcement officer in the second degree.

(a) A person commits the offense of assault against a law enforcement officer in the second degree if the person recklessly causes bodily injury to a law enforcement officer who is engaged in the performance of duty.

(b) Assault of a law enforcement officer in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 14 § 1404], modified.

§ 1406. Reckless endangering in the first degree.

(a) A person commits the offense of reckless endangering in the first degree if the person employs widely dangerous means in a manner that recklessly places another person in danger of death or serious bodily injury.

(b) Reckless endangering in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 14 § 1405], modified.

§ 1407. Reckless endangering in the second degree.

(a) A person commits the offense of reckless endangering in the second degree if the person engages in conduct that recklessly places another person in danger of death or serious bodily injury.

(b) Reckless endangering in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 14 § 1406], modified.

§ 1408. Terroristic threatening, defined.

A person commits the offense of terroristic threatening if the person threatens, by word or conduct, to cause bodily injury to another person or serious damage to property of another or to commit a felony:

(1) with the intent to terrorize, or in reckless disregard of the risk of terrorizing, another person; or

(2) with intent to cause, or in reckless disregard of the risk of causing evacuation of a building, place of assembly, or facility of public transportation.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 14 § 1407], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 1409. Terroristic threatening in the first degree.

(a) A person commits the offense of terroristic threatening in the first degree if the person commits terroristic threatening:

(1) by threatening another person on more than one occasion for the same or a similar purpose;

(2) by threats made in a common scheme against different persons;

(3) against a public servant arising out of the performance of the public servant's official duties. For the purposes of this paragraph, "public servant" includes but is not limited to civil service employees and educational workers; or

(4) with the use of a dangerous instrument.

(b) Terroristic threatening in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 14 § 1408], modified.

§ 1410. Terroristic threatening in the second degree.

(a) A person commits the offense of terroristic threatening in the second degree if the person commits terroristic threatening other than as provided in 17 PNC § 1409.

(b) Terroristic threatening in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 14 § 1409], modified.

Notes
The section referenced in this section has been renumbered to conform with the Code numbering format.

Chapter 15 — Kidnapping and Related Offenses; Criminal Coercion

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 15 read §§ 1500–1502, which has been renumbered to §§ 1501–1503 to conform with the Style of the Code.

§ 1501. Kidnapping.

(a) A person commits the offense of kidnapping if the person intentionally or knowingly restrains another person with intent to:

(1) hold that person for ransom or reward;

(2) use that person as a shield or hostage;

(3) facilitate the commission of a felony or flight thereafter;

(4) inflict bodily injury upon that person or subject that person to a sexual offense;

(5) terrorize that person or a third person;

(6) interfere with the performance of any governmental or political function; or

(7) unlawfully obtain the labor or services of that person, regardless of whether related to the collection of a debt.

(b) Except as provided in subsection (c) below, kidnapping is a class A felony.

(c) In a prosecution for kidnapping, it is a defense which reduces the offense to a class B felony that the defendant voluntarily released the victim, alive and not suffering from serious or substantial bodily injury, in a safe place prior to trial.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1501 and RPPL 9-21 § 5 [Chapter 15 § 1500], modified, adds section.

§ 1502. Unlawful imprisonment in the first degree.

(a) A person commits the offense of unlawful imprisonment in the first degree if the person knowingly restrains another person under circumstances that expose the person to the risk of serious bodily injury.

(b) Unlawful imprisonment in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 15 § 1501], modified.

§ 1503. Unlawful imprisonment in the second degree.

(a) A person commits the offense of unlawful imprisonment in the second degree if the person knowingly restrains another person.

(b) In any prosecution under this section it is an affirmative defense, that (1) the person restrained was less than eighteen years old, (2) the defendant was a relative of the victim, and (3) the defendant's sole purpose was to assume custody over the victim. In that case, the liability of the defendant shall be governed by Title 21 PNC and may be convicted under Title 21 PNC even if charged under this section.

(c) In any prosecution under this section it is an affirmative defense, that the person restrained

(1) was on or in the immediate vicinity of the premises of a retail establishment for the purpose of investigation or questioning as to the ownership of any merchandise;

(2) was restrained in a reasonable manner and for not more than a reasonable time;

(3) was restrained to permit such investigation or questioning by a police officer or by the owner of the retail establishment, the owner's authorized employee or agent; and

(4) that such police officer, owner, employee or agent had reasonable grounds to believe that the person so detained was committing or attempting to commit theft of merchandise on the premises.

(d) Unlawful imprisonment in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 15 § 1502], modified.

Chapter 16 — Sexual Offenses

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 16 read §§ 1600–1608, which has been renumbered to §§ 1601–1609 to conform with the Style of the Code.

Former Chapter 28 of Title 17 of the Palau National Code entitled "Sex Crimes" is renumbered as Chapter 16 of Title 17 of the Palau National Code and its title amended as "Sexual Offenses" by RPPL 9-21 § 4 (a) and § 5 [Chapter 16 § 1600], modified.

§ 1601. Definitions of terms in this chapter.

In this chapter, unless a different meaning plainly is required:

(1) "bodily injury" means physical pain, illness, or any impairment of physical condition.

(2) "compulsion" means absence of consent, or a threat, express or implied, that places a person in fear of public humiliation, property damage, or financial loss.

(3) "dangerous instrument" means any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury.

(4) "deviate sexual intercourse" means any act of sexual gratification between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.

(5) "incompetent person" means a person who because of disease, disorder or defect is unable to care for himself or herself.

(6) "law enforcement officer" means any public servant, whether employed by the Republic of Palau or political subdivisions thereof, or any state thereof, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

(7) "married" includes persons legally married or solemnized in accordance with recognized custom, and a male and female living together as husband and wife regardless of their legal status, but does not include spouses living apart.

(8) "mentally defective" means a person suffering from a disease, disorder, or defect that renders the person incapable of appraising the nature of the person's conduct.

(9) "mentally incapacitated" means a person rendered temporarily incapable of appraising or controlling the person's conduct as a result of the influence of a substance administered to the person without the person's consent.

(10) "person" means a human being who has been born and is alive.

(11) "physically helpless" means a person who is unconscious or for any other reason physically unable to communicate unwillingness to an act.

(12) "relative" means parent, ancestor, brother, sister, uncle, aunt, or legal guardian.

(13) "restrain" means to restrict a person's movement in such a manner as to interfere substantially with the person's liberty,

(A) by means of force, threat, or deception; or

(B) if the person is under the age of eighteen or incompetent, without the consent of the relative, person, or institution having lawful custody of the person.

(14) "serious bodily injury" means bodily injury that creates a substantial risk of death or that causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(15) "sexual contact" means any touching, other than acts of "sexual penetration", of the sexual or other intimate parts of a person not married to the actor, or of the sexual or other intimate parts of the actor by the person, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts.

(16) "sexual penetration" means:

(A) vaginal intercourse, anal intercourse, fellatio, deviate sexual intercourse, or any intrusion of any part of a person's body or of any object into the genital or anal opening of another person's body; it occurs upon any penetration, however slight, but emission is not required. As used in this definition, "genital opening" includes the anterior surface of the vulva or labia majora; or

(B) cunnilingus or anilingus, whether or not actual penetration has occurred. For purposes of this chapter, each act of sexual penetration shall constitute a separate offense.

(17) "strong compulsion" means the use of or attempt to use one or more of the following to overcome a person:

(A) a threat, express or implied, that places a person in fear of bodily injury to the individual or another person, or in fear that the person or another person will be kidnapped;

(B) a dangerous instrument; or

(C) physical force.

(18) "substantial bodily injury" means bodily injury which causes:

(A) a major avulsion, laceration, or penetration of the skin;

(B) a burn of at least second degree severity;

(C) a bone fracture;

(D) a serious concussion; or

(E) a tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.

Section Notes

Sources
RPPL 8-51 § 5[2800], modified.
RPPL 9-21 § 4(a) and § 5 [Chapter 16 § 1600], modified recodifies section from 17 PNC § 2801 to 17 PNC § 1601.

Supreme Court Cases
Sobahan v. ROP, 2017 Palau 6 ¶¶ 3, 8, 13 (App. Div.).

§ 1602. Incest.

(a) A person commits the offense of incest if the person knowingly commits an act of sexual penetration with another who is within the degrees of consanguinity or affinity within which marriage is prohibited by law or custom.

(b) Incest is a class A felony.

Section Notes

Sources
(Code 1966, § 407.) 11 TTC § 1301.
RPPL 8-51 § 5[2801], modified, amends section.
RPPL 9-21 § 4(b) and § 5 [Chapter 16 § 1601], modified, recodifies section from 17 PNC § 2802 to 17 PNC §1602.
RPPL 9-48 § 4 amends section.

Supreme Court Cases
Yangilemau v. Mahoburimalei, 1 TTR 429 (1958).

§ 1603. Sexual assault in the first degree.

(a) A person commits the offense of sexual assault in the first degree if:

(1) the person knowingly subjects another person to an act of sexual penetration by strong compulsion;

(2) the person knowingly engages in sexual penetration with another person who is less than fifteen years old;

(3) the person knowingly engages in sexual penetration with a person who is at least fifteen years old but less than seventeen years old; provided that:

(A) the person is not less than five years older than the minor; and

(B) the person is not legally married to the minor;

(4) the person knowingly subjects to sexual penetration another person who is mentally defective; or

(5) the person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless as a result of the influence of a substance that the actor knowingly caused to be administered to the other person without the other person's consent.

(b) Paragraphs (2) and (3) [of subsection (a)] shall not be construed to prohibit licensed medical practitioners from performing any act within their respective practices.

(c) Sexual assault in the first degree is a class A felony.

Section Notes

Sources
RPPL 8-51 § 5[2802], modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 16 § 1602], modified, recodifies section from 17 PNC § 2803 to 17 PNC §1603.
RPPL 9-48 § 4 amends section.

Notes
The Code Commission designated the undesignated text in RPPL 9-48 § 4 as subsection (b), added "[of subsection (a)]", and redesignated the subsequent subsection accordingly.

Supreme Court Cases
Dulei v. ROP, 2017 Palau 29 ¶ 1 (App. Div.).

§ 1604. Sexual assault in the second degree.

(a) A person commits the offense of sexual assault in the second degree if:

(1) the person knowingly subjects another person to an act of sexual penetration by compulsion;

(2) the person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless; or

(3) the person, while employed:

(A) in a Republic of Palau correctional facility or a community-based residential facility;

(B) by a private company providing services at a correctional facility;

(C) by a private company providing community-based residential services to persons committed to the Bureau of Public Safety and having received notice of this statute;

(D) by a private correctional facility operating in the Republic of Palau; or

(E) as a law enforcement officer, knowingly subjects to sexual penetration an imprisoned person, a person confined to a detention facility, a person committed to the Bureau of Public Safety, a person residing in a private correctional facility operating in the Republic of Palau, or a person in custody; provided that paragraph (2) and this paragraph shall not be construed to prohibit licensed medical practitioners from performing any act within their respective practices; and further provided that this paragraph shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or exception to the warrant clause.

(b) Sexual assault in the second degree is a class B felony.

Section Notes

Sources
RPPL 8-51 § 5[2803], modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 16 § 1603], modified, recodifies section from 17 PNC § 2804 to 17 PNC §1604.
RPPL 9-48 § 4 amends section.

§ 1605. Sexual assault in the third degree.

(a) A person commits the offense of sexual assault in the third degree if:

(1) the person recklessly subjects another person to an act of sexual penetration by compulsion;

(2) the person knowingly subjects to sexual contact another person who is less than fifteen years old or causes such a person to have sexual contact with the person;

(3) the person knowingly engages in sexual contact with a person who is at least fifteen years old but less than seventeen years old or causes the minor to have sexual contact with the person; provided that:

(A) the person is not less than five years older than the minor; and

(B) the person is not legally married to the minor;

(4) the person knowingly subjects to sexual contact another person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with the actor;

(5) the person, while employed:

(A) in a Republic of Palau correctional facility or a community- based residential facility;

(B) by a private company providing services at a correctional facility;

(C) by a private company providing community-based residential services to persons committed to the Bureau of Public Safety and having received notice of this statute;

(D) by a private correctional facility operating in the Republic of Palau; or

(E) as a law enforcement officer, knowingly subjects to sexual contact an imprisoned person, a person confined to a detention facility, a person committed to the Bureau of Public Safety, a person residing in a private correctional facility operating in the Republic of Palau, or a person in custody, or causes the person to have sexual contact with the actor; or

(F) the person knowingly, by strong compulsion, has sexual contact with another person or causes another person to have sexual contact with the actor.

(b) Paragraphs (2), (3), (4), and (5) [of subsection (a)] shall not be construed to prohibit licensed medical practitioners from performing any act within their respective practices; provided further that paragraph (5)(E) [of subsection (a)] shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or an exception to the warrant clause.

(c) Sexual assault in the third degree is a class C felony.

Section Notes

Sources
RPPL 8-51 § 5[2804], modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 16 § 1604], modified, recodifies section from 17 PNC § 2805 to 17 PNC §1605.
RPPL 9-48 § 4 amends section.

Notes
The Code Commission designated the undesignated text in RPPL 9-48 § 4 as subsection (b) and redesignated the subsequent subsection accordingly. The Code Commission has added "of subsection (a)" in two places in subsection (b) as complying with the likely intention of legislation.

Supreme Court Cases
Dulei v. ROP, 2017 Palau 29 ¶ 1 (App. Div.).
Sobahan v. ROP, 2017 Palau 6 ¶¶ 1, 3, 13, 19 (App. Div.).

§ 1606. Sexual assault in the fourth degree.

(a) A person commits the offense of sexual assault in the fourth degree if:

(1) the person knowingly subjects another person to sexual contact by compulsion or causes another person to have sexual contact with the actor by compulsion;

(2) the person knowingly exposes the person's genitals to another person under circumstances in which the actor's conduct is likely to alarm the other person or put the other person in fear of bodily injury; or

(3) the person knowingly trespasses on property for the purpose of subjecting another person to surreptitious surveillance for the sexual gratification of the actor.

(b) Sexual assault in the fourth degree is a misdemeanor.

Section Notes

Sources
RPPL 8-51 § 5[2805], modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 16 § 1605], modified, recodifies section from 17 PNC § 2806 to 17 PNC §1606.
RPPL 9-48 § 4 amends section.

Supreme Court Cases
Dulei v. ROP, 2017 Palau 29 ¶ 1 (App. Div.).
Sobahan v. ROP, 2017 Palau 6 ¶ 1 n.1 (App. Div.).

§ 1607. Continuous sexual assault of a minor under the age of fifteen years.

(a) A person commits the offense of continuous sexual assault of a minor under the age of fifteen years if the person:

(1) either resides in the same home with a minor under the age of fifteen years or has recurring access to the minor; and

(2) engages in three or more acts of sexual penetration or sexual contact with the minor over a period of time, while the minor is under the age of fifteen years.

(b) No other felony sex offense involving the same victim may be charged in the same proceeding with a charge under this section, unless the other charged offense occurred outside the period of the offense charged under this section, or the other offense is charged in the alternative. A defendant may be charged with only one count under this section, unless more than one victim is involved, in which case a separate count may be charged for each victim.

(c) Continuous sexual assault of a minor under the age of fifteen years is a class A felony.

Section Notes

Sources
RPPL 8-51 § 5[2806], modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 16 § 1606], modified, recodifies section from 17 PNC § 2807 as 17 PNC § 1607.
RPPL 9-48 § 4 amended section.

§ 1608. Sexual harassment.

(a) A person commits the offense of sexual harassment if the person intentionally, knowingly or recklessly subjects a person to:

(1) unwelcome sexual advances;

(2) unwelcome requests for sexual favors; or

(3) unwelcome verbal or physical conduct of a sexual nature.

(b) Sexual harassment is a misdemeanor.

Section Notes

Sources
RPPL 8-51 § 5[2807], modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 16 § 1607], modified, recodifies section from 17 PNC § 2808 to 17 PNC §1608.
RPPL 9-48 § 4 amends section.

§ 1609. Indecent exposure.

(a) A person commits the offense of indecent exposure if the person intentionally exposes the person's genitals to a person to whom the person is not married under circumstances in which the actor's conduct is likely to cause affront.

(b) Indecent exposure is a misdemeanor.

Section Notes

Sources
RPPL 8-51 § 5[2808], modified.
RPPL 9-21 § 4(b) and § 5 [Chapter 16 § 1608], modified, recodifies section from 17 PNC § 2809 to 17 PNC §1609.
RPPL 9-48 § 4 amends section.

Supreme Court Cases
Dulei v. ROP, 2017 Palau 29 ¶ 1 (App. Div.).

§ 1610. Illegally marrying.

(a) A person commits the offense of illegally marrying if the person intentionally marries or purports to marry, knowing that the person is legally ineligible to do so.

(b) Illegally marrying is a class C felony.

Section Notes

Sources
RPPL 9-21 § 8 [Chapter 16 § 1609], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

RPPL 9-21 § 8 added section entitled "Illegally marrying" at § 1609, which has been renumbered to § 1610 to conform with the Code numbering format.

§ 1611. Unauthorized distribution of a sensitive or intimate image; penalties.

(a) Unauthorized distribution of a sensitive or intimate image consists of distributing, publishing, or otherwise making available, by electronic communications device or other means, a sensitive or intimate image of a person, with or without information identifying that person, without that person's consent, where:

(1) the unauthorized distribution of the sensitive or intimate image would cause a reasonable person to suffer substantial emotional distress; and

(2) the distributor knows or has reason to know that the unauthorized distribution of the sensitive or intimate image will:

(A) harass, humiliate, or intimidate that person;

(B) incite another to harass, humiliate, or intimidate that person;

(C) cause that person to reasonably fear for that person's own or a family member's safety;

(D) cause that person to suffer unwanted physical contact or injury; or

(E) cause that person to suffer substantial emotional distress.

(b) For the purposes of this section:

(1) "electronic communication device" means a computer, an internet website or page, a video recorder, a digital camera, a fax machine, a telephone, a cellular telephone, a pager, or any device that can produce an electronically generated image, message, or signal;

(2) "information service" means a service offering the capability of generating, acquiring, storing, transforming, processing, publishing, retrieving, utilizing, or making available information;

(3) "interactive computer service" means any information service, system, or access software provider that provides or enables computer access to multiple users;

(4) "intimate image" means an image of a person posing unclothed in a provocative or arousing manner that is considered obscene under the current community standards, or engaging in the act of or simulation of sexual intercourse, cunnilingus, fellatio, masturbation of oneself or one person by another, anal intercourse, or the causing of the penetration of, to any extent and with any object, the genital or anal opening of another, whether or not there is any emission; and

(5) "telecommunication provider" means any telephone company, telecommunications company, or cellular service company.

(c) Whoever commits unauthorized distribution of a sensitive or intimate image is guilty of a class C felony.

(d) Nothing in this section shall be construed to impose liability on:

(1) an interactive computer service, or information service, or telecommunication provider, or other similar commercial service provider for content provided by another person; or,

(2) a person who reproduced, distributed, exhibits, publishes, transmits or otherwise disseminates content in furtherance of a legitimate public purpose.

Section Notes

Sources
RPPL 11-38 § 2, modified.

Chapter 17 — Registration of Sex Offenders and Other Covered Offenders and Public Access to Registration Information

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 17 read §§ 1700–1709, which has been renumbered to §§ 1701–1710 to conform with the Style of the Code.

§ 1701. Definitions.

As used in this chapter, unless the context clearly requires otherwise:

(1) "agency having jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of incarceration or place a person on probation, supervised release, or parole and includes the Bureau of Public Safety, the paroling authority, the courts, and the Ministry of Health and Human Services.

(2) "clean record" means no conviction for a felony or covered offense, if placed on probation or parole, completion of probation or parole without more than one revocation, and, for sex offenders, successful completion of an appropriate sex offender treatment program, if such program was ordered.

(3) "conviction" means a judgment on the verdict, or a finding of guilt after a plea of guilty or no contest, excluding the adjudication of a minor.

(4) "covered offender" means a "sex offender" or an "offender against minors", as defined in this section.

(5) "covered offense" means a criminal offense that is:

(A) a crime within the definition of "crimes against minors" in this section; or

(B) a crime within the definition of "sexual offense" in this section.

(6) "crime against minors" excludes "sexual offenses" as defined in this section and means a criminal offense that consists of:

(A) kidnapping of a minor, by someone other than a parent;

(B) unlawful imprisonment in the first or second degree that involves the unlawful imprisonment of a minor by someone other than a parent;

(C) an act, as described in 17 PNC Division 2 of this Penal Code, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in subparagraph (A) or (B); or

(D) a criminal offense that is comparable to or which exceeds one of the offenses designated in subparagraphs (A) through (C), if the criminal offense was committed in another jurisdiction.

(7) "mental abnormality" means a condition involving a disposition to commit criminal sexual offenses with a frequency that makes the person a menace to others.

(8) "offender against minors" means a person who is not a "sex offender", as defined in this section, and is or has been:

(A) convicted at any time of a "crime against minors" as defined in this section; or

(B) charged at any time with a "crime against minors" as defined in this section and who is found unfit to proceed and is released into the community or who is acquitted due to a physical or mental disease, disorder, or defect pursuant to Chapter 5 of this Penal Code and is released into the community.

(9) "parent" means a parent, legal guardian, or a person who has a substantial familial or relationship based on custom, with the minor.

(10) "personality disorder" shall have the same meaning as the term is used in the Diagnostic and Statistical Manual of Mental Health Disorders: DSM-IV, American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994).

(11) "predatory" means an act directed at:

(A) a stranger; or

(B) a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(12) "registration information" means the information specified in 17 PNC Section 1702 (d) and (e).

(13) "release" means release from:

(A) incarceration;

(B) incarceration and placed on parole;

(C) incarceration and placed on work release or furlough;

(D) any form of commitment, custody, or confinement resulting from an order made pursuant to 17 PNC Chapter 5 of this Penal Code; or

(E) a halfway house or other equivalent facility, whichever is later.

(14) "repeat covered offender" means:

(A) a person who is or has been convicted at any time of more than one covered offense as defined in this section, except that a conviction for multiple counts within a single charging document that allege covered offenses against the same victim and that allege the same date of the covered offense against that single victim shall be considered, for the purposes of this definition, a single covered offense; or

(B) a person who is or has been charged at any time with more than one covered offense as defined in this section and who has been, more than once, either:

(i) convicted;

(ii) found unfit to proceed pursuant to 17 PNC Chapter 5 of this Penal Code; or

(iii) acquitted due to a physical or mental disease, disorder, or defect pursuant to 17 PNC Chapter 5 of this Penal Code.

(15) "sex offender" means:

(A) a person who is or has been convicted at any time of a "sexual offense"; or

(B) a person who is or has been charged at any time with a "sexual offense" and is or has been found unfit to proceed and is or has been released into the community or who is acquitted due to a physical or mental disease, disorder, or

defect pursuant to 17 PNC Chapter 5 of this Penal Code and is released into the community.

(16) "sexual offense" means an offense that is:

(A) set forth in 17 PNC Chapter 16, 17 PNC Sections 4803(a)(1), 4803(a)(2), 4804(a), or 21 PNC Sections 602 and 608, but excludes conduct that is criminal only because of the age of the victim, as provided in 17 PNC Chapter 16 if the perpetrator is under eighteen years of age;

(B) an act defined in 17 PNC Section 1501 if the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;

(C) an act that consists of:

(i) criminal sexual conduct toward a minor, including but not limited to an offense set forth in 17 PNC Section 1808;

(ii) solicitation of a minor who is less than eighteen years old to engage in sexual conduct;

(iii) use of a minor in a sexual performance;

(iv) production, distribution, or possession of child pornography chargeable as a felony under 17 PNC Section 1802, 1803, or 1804;

(v) electronic enticement of a child chargeable under 17 PNC Section 1806 if the offense was committed with the intent to promote or facilitate the commission of another covered offense as defined in this section; or

(vi) solicitation of a minor to practice prostitution;

(D) convicted at any time of a violation of privacy under 17 PNC Section 4413; or charged at any time with a violation of privacy under 17 PNC Section 4413, who is currently or was previously found unfit to proceed against the charges, and is currently or was previously released into the community or who is currently or was previously acquitted due to a physical or mental disease, disorder, or defect pursuant to 17 PNC Chapter 5 of this Penal Code, and is currently or was previously released into the community;

(F) a criminal offense that is comparable to or that exceeds a sexual offense as defined in subparagraphs (A) through (D) if the criminal offense was committed in another jurisdiction; or

(G) an act, as described in 17 PNC Division 2 of this Penal Code, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in subparagraphs (A) through (E); or

(H) any predecessor offenses of the above.

Section Notes

Sources
RPPL 9-21 § 3. Repeals former § 1701 and RPPL 9-21 § 5 [Chapter 17 § 1700], modified, adds section.

Notes
The Code Commission has made technical changes to the designations and cross-references within this section to conform to the Style of the Code.

§ 1702. Registration requirements.

(a) A covered offender shall register with the Attorney General and comply with the provisions of this chapter for life or for a shorter period of time as provided in this chapter. A covered offender shall be eligible to petition the court in a civil proceeding for an order that the covered offender's registration requirements under this chapter be terminated, as provided in 17 PNC Section 1709.

(b) A person who establishes or maintains a residence in the Republic of Palau and who has not been designated as a covered offender by a court of the Republic of Palau but who has been designated as a covered offender, sex offender, offender against minors, repeat covered offender, sexually violent predator, or any other sexual offender designation in another jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a covered offender, shall register in the manner provided in this section and shall be subject to community and public notification as provided in 17 PNC Section 1703. A person who meets the criteria of this subsection is subject to the requirements and penalty provisions of 17 PNC Section 1708 until the person successfully petitions the Attorney General for termination of registration requirements by:

(1) providing an order issued by the court that designated the person as a covered offender, sex offender, offender against minors, repeat covered offender, sexually violent predator, or any other sexual offender designation in the jurisdiction in which the order was issued, which states that such designation has been removed or demonstrates to the Attorney General that such designation, if not imposed by a court, has been removed by operation of law or court order in the jurisdiction in which the designation was made, and such person does not meet the criteria for registration as a covered offender under the laws of the Republic of Palau; or

(2) demonstrating that the convictions upon which the sexual offender designation was established in another jurisdiction are not covered offenses under 17 PNC Section 1701, thereby showing that such person does not meet the criteria for registration as a covered offender under the laws of the Republic of Palau. If the covered offender is not satisfied with the decision of the Attorney General on the request for termination of registration requirements, the covered offender may appeal the decision pursuant to 6 PNC Sections 147-148, the Administrative Procedure Act.

(c) Each provision of this chapter applicable to sex offenders shall also be applicable to offenders against minors, unless offenders against minors are specifically excluded. Whenever a covered offender's public information is made publicly accessible, separate registries shall be maintained for:

(1) sex offenders; and

(2) offenders against minors.

(d) Registration information for each covered offender shall include a signed statement by the covered offender containing:

(1) the name, all prior names, nicknames and pseudonyms, and all aliases used by the covered offender or under which the covered offender has been known and other identifying information, including date of birth and any alias date of birth, social

security number and any alias social security number, sex, race, height, weight, and hair and eye color;

(2) the actual address and telephone number of the covered offender's residence or any current, temporary address where the covered offender resides, or if an address is not available, a description of the place or area in which the covered offender resides for at least thirty nonconsecutive days within a sixty-day period, and for each address or place where the covered offender resides, how long the covered offender has resided there;

(3) the actual address or description of the place or area, the actual length of time of the stay, and telephone number where the covered offender is staying for a period of more than ten days, if other than the residence stated in subsection (b) above;

(4) if known, the future address and telephone number where the covered offender is planning to reside, if other than the residence stated in subsection (b) above;

(5) any electronic mail address, any instant message name, any internet designation or moniker, and any internet address used for routing or self-identification;

(6) any cellular phone number and other designations used for routing or self-identification in telephonic communications;

(7) names and, if known, actual business addresses of current and known future employers, including information for any place where the covered offender works as a volunteer or otherwise works without remuneration, and the starting and ending dates of any such employment;

(8) for covered offenders who may not have a fixed place of employment, a description of the places where such a covered offender works, such as information about normal travel routes or the general area or areas in which the covered offender works;

(9) professional licenses held by the covered offender;

(10) names and actual addresses of current and known future educational institutions with which the covered offender is affiliated in any way, whether or not compensated, including but not limited to affiliation as a faculty member, an employee, or a student, and the starting and ending dates of any such affiliation;

(11) the year, make, model, color, and license or registration or other identifying number of all vehicles, including automobiles, watercrafts, and aircrafts, currently owned or operated by the covered offender and the address or description of the place or places where the covered offender's vehicle or vehicles are habitually parked, docked, or otherwise kept;

(12) passports and information about the passports, if the covered offender has passports, and documents establishing immigration status and information about these documents, if the covered offender is an alien;

(13) a statement listing all covered offenses for which the covered offender has been convicted or found unfit to proceed or acquitted pursuant to 17 PNC Chapter 5 of this Penal Code;

(14) a statement indicating whether the covered offender has received or is currently receiving treatment ordered by a court of competent jurisdiction or by the probation or paroling authority;

(15) a statement indicating whether the covered offender is a citizen of the Republic of Palau; and

(16) any additional identifying information about the covered offender.

(e) The following information shall also be included in the registry for each covered offender:

(1) a current photograph of the covered offender;

(2) a physical description of the covered offender, including a description of particular identifying characteristics such as scars or tattoos;

(3) confirmation that the covered offender has provided his or her fingerprints and palm prints;

(4) judgment of conviction, judgment of acquittal, or judicial determination of unfitness to proceed documenting the criminal offense or offenses for which the covered offender is registered;

(5) the text of the provision of law defining the criminal offense or offenses for which the covered offender is registered;

(6) the criminal history of the covered offender, including the date of all arrests and convictions, the status of parole, probation, or supervised release, registration status, and the existence of any outstanding arrest warrants for the covered offender;

(7) color copies of a valid driver's license or identification card issued to the covered offender; and

(8) color copies of passports and documents establishing immigration status.

(f) Whenever a covered offender provides registration information, during initial registration as a covered offender or when providing notice of a change in registration information, the covered offender also shall sign a statement verifying that all of the registration information is accurate and current.

(g) In addition to the requirement under subsection (a) to register with the Attorney General and comply with the provisions of this chapter until a court relieves the covered offender of the registration requirements of this chapter, each covered offender shall also register in person with the Bureau of Public Safety where the covered offender resides or is present. Registration under this subsection is for the purpose of providing the covered offender's photograph, fingerprints, and registration information. Registration under this subsection is required whenever the covered offender, whether or not a resident of the Republic of Palau, remains in the Republic of Palau for more than ten days or for an aggregate period exceeding thirty days in one calendar year. Covered offenders required to register in person with the Bureau of Public Safety under this subsection shall register no later than three working days after the earliest of:

(1) arrival in the Republic of Palau;

(2) release from incarceration;

(3) release from commitment;

(4) work release or furlough;

(5) conviction for a covered offense, unless incarcerated;

(6) release on probation;

(7) placement on parole; or

(8) arrival in a county in which the covered offender resides or expects to be present for a period exceeding ten days.

(h) In addition to any other requirement to register under subsection (a) or subsection (g), each covered offender shall report every year, within the thirty-day period following the offender's date of birth, to the Bureau of Public Safety where the covered offender resides, or to such other bureau or agency that may be designated by the Attorney General in rules adopted pursuant to 6 PNC Chapter 1, the Administrative Procedure Act, for purposes of the administration of subsection (g), and shall review the existing information in the registry that is within the offender's knowledge, correct any information that has changed or is inaccurate, provide any new information that may be required, and allow the police and such other bureau or agency designated by the Attorney General to take a current photograph of the offender.

(i) The registration provisions of this section shall apply to all covered offenders without regard to:

(1) the date of the covered offender's conviction;

(2) the date of finding, pursuant to 17 PNC Chapter 5 of this Penal Code, of the covered offender's unfitness to proceed; or

(3) the date of the covered offender's acquittal due to mental disease, disorder, or defect, pursuant to 17 PNC Chapter 5 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1702 and RPPL 9-21 § 5 [Chapter 17 § 1701], modified, adds section.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has designated the undesignated text following subsection (g) as subsection (h), redesignated the subsequent subsections, and modified the cross-references accordingly.

§ 1703. Access to registration information.

(a) Registration information shall be disclosed as follows:

(1) the information shall be disclosed to law enforcement agencies for law enforcement purposes;

(2) the information shall be disclosed to government agencies conducting confidential background checks; and

(3) the Attorney General and the Bureau of Public Safety shall release public information as provided in subsection (b) below concerning a specific person required to register under this chapter; provided that the identity of a victim of an offense that requires registration under this chapter shall not be released.

(b)

(1) For purposes of this section, "public information" means:

(A) name, prior names, nicknames and pseudonyms, and all aliases used by the covered offender or under which the covered offender has been known;

(B) the year of the covered offender's date of birth and the year of the covered offender's alias dates of birth;

(C) a physical description of the covered offender, including a description of particular identifying characteristics such as scars or tattoos;

(D) the actual address where the covered offender resides or any current, temporary address where the covered offender resides or, if an address is not available, a description of any place or area in which the covered offender resides for at least thirty nonconsecutive days within a sixty-day period, and, for each address or place where the covered offender resides, how long the covered offender has resided there;

(E) the actual address or description of the place or area where the covered offender is staying for more than ten days, if other than the stated residence, and the actual length of time of the stay;

(F) the future actual address, if known, where the covered offender is planning to reside, if other than the residence stated in 17 PNC 1702(d)(2);

(G) the street name or description of the covered offender's current locations of employment, including information for any place where the covered offender works as a volunteer or otherwise works without remuneration;

(H) for covered offenders who may not have a fixed place of employment, a description of the places where such a covered offender works;

(J) names and actual addresses of current and known future educational institutions with which the covered offender is affiliated as a faculty member, an employee, or a student, and the starting and ending dates of any such affiliation;

(K) the year, make, model, color, and license number of all vehicles, including automobiles, watercrafts, and aircrafts, currently owned or operated by the covered offender, excluding vehicles operated exclusively for purposes of work;

(L) a statement listing all covered offenses for which the covered offender has been convicted or found unfit to proceed or acquitted pursuant to 17 PNC Chapter 5 of this Penal Code;

(M) judgment of conviction, judgment of acquittal, or judicial determination of unfitness to proceed documenting the criminal offense or offenses for which the covered offender is registered;

(N) the text of the provision of law defining the criminal offense or offenses for which the covered offender is registered; and

(O) a recent photograph of the covered offender.

(2) The identity of any victim of a sexual offense shall not be disclosed and any documentation containing such information shall be redacted to prevent disclosure.

(c) To facilitate community notification, after a covered offender registers or updates a registration, the Attorney General may provide public information in the registry about that offender to any organization, company, or individual who requests such notification pursuant to procedures established by the Attorney General through rules adopted pursuant to 6 PNC Chapter 1, the Administrative Procedure Act.

(d) A covered offender may seek correction of erroneous public information by petitioning the Attorney General to make the correction. If the covered offender is not satisfied with the decision of the Attorney General on the request for correction, the covered offender may appeal the decision pursuant to 6 PNC Sections 147-148, the Administrative Procedure Act.

(e) Public access to a covered offender's public information shall be permitted with regard to each covered offender beginning the next working day following the filing of a judgment of conviction, a finding of unfitness to proceed or an acquittal due to mental disease, disorder, or defect, for a covered offense, or as soon thereafter as is practical. When a notice of appeal has been filed, the public information shall note that the covered offender has filed a notice of appeal. The public information shall be removed upon the reversal of the covered offender's conviction or the granting of a pardon to the covered offender.

(f) Public access authorized by this section shall be provided by both public internet access and on-site public access; provided that on-site public access shall be provided for each covered offender at the office of the Attorney General and at one or more designated police stations in the Republic of Palau, to be designated by the Attorney General through rules adopted pursuant to 6 PNC Chapter 1, the Administrative Procedure Act, between the hours of 8:00 A.M. and 4:30 P.M. on weekdays, excluding holidays.

(g) Public access to the public information for each covered offender shall be permitted while the covered offender is subject to sex offender registration, except that after forty years have elapsed after release or sentencing, whichever is later, a covered offender may petition the court in a civil proceeding to terminate public access. In the civil proceeding to terminate public access, the Republic of Palau shall be represented by the Attorney General. For covered offenders who have never been convicted of a covered offense within the Republic of Palau, the Attorney General shall represent the Republic of Palau. The court may order this termination upon substantial evidence and more than proof by a preponderance of the evidence that:

(1) the covered offender has had no new convictions for covered offenses;

(2) the covered offender is very unlikely to commit a covered offense ever again; and

(3) public access to the covered offender's public information will not assist in protecting the safety of the public or any member thereof; provided that a denial by the court for relief pursuant to a petition under this section shall preclude the filing of another petition for five years from the date of the last denial.

(h) If a covered offender has been convicted of only one covered offense and that covered offense is a misdemeanor, the covered offender shall not be subject to the public access requirements set forth in this section.

(i) The following message shall be posted at both the site of internet access and on-site public access locations:

> "Information regarding covered offenders is permitted pursuant 17 PNC Sections 1701 to 1710. Public access to this information is based solely on the fact of each offender's criminal conviction and is not based on an estimate of the offender's level of dangerousness. By allowing public access to this information, the Republic of Palau makes no representation as to whether the covered offenders listed are dangerous. Any person who uses the information in this registry to injure, harass, or commit a criminal

act against any person included in the registry may be subject to criminal prosecution, civil liability, or both."

(j) The public access provisions of this section shall apply to all covered offenders without regard to the date of conviction.

(k) "conviction" as used in this section means:

(1) a judgment on the verdict, or a finding of guilt after a plea of guilty or no contest, excluding the adjudication of a minor;

(2) a finding of unfitness to proceed resulting in the release of the covered offender into the community, excluding such a finding as to a minor; or

(3) an acquittal due to a physical or mental disease, disorder, or defect pursuant to 17 PNC Chapter 5 of this Penal Code resulting in the release of the covered offender into the community, excluding such acquittal as to a minor.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1703 and RPPL 9-21 § 5 [Chapter 17 § 1702], modified, adds section.

Notes
Subsections (j) and (k) were designated (i) and (j) in the original statute and have been corrected accordingly. The Code Commission has designated the undesignated text in subsection (b) as paragraph (2) and redesignated the subsection accordingly. Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 1704. Duties upon discharge, parole, or release of covered offender.

(a) Each person, or that person's designee, in charge of a jail, prison, hospital, school, or other institution to which a covered offender has been committed pursuant to a conviction, or an acquittal or finding of unfitness to proceed pursuant to 17 PNC Chapter 5 of this Penal Code, for a covered offense, and each judge, or that judge's designee, who continues bail for or releases a covered offender following a guilty verdict or a plea of guilty or no contest, who releases a covered offender on probation or who discharges a covered offender upon payment of a fine, and each agency having jurisdiction, shall, prior to the discharge, parole, or release of the covered offender:

(1) explain to the covered offender the duty to register and the consequences of failing to register under this chapter;

(2) obtain from the covered offender all of the registration information required by this chapter;

(3) inform the covered offender that if at any time the covered offender changes any of the covered offender's registration information, the covered offender shall notify the Attorney General of the new registration information in writing within three working days;

(4) inform the covered offender that, if at any time the covered offender changes residence to another jurisdiction, the covered offender shall register the new address with the Attorney General and also with a designated law enforcement agency in the new jurisdiction, if the new jurisdiction has a registration requirement, within the period of time mandated by the new jurisdiction's sex offender registration laws;

(5) obtain and verify fingerprints and a photograph of the covered offender, if these have not already been obtained or verified in connection with the offense that triggers the registration;

(6) require the covered offender to sign a statement indicating that the duty to register has been explained to the covered offender; and

(7) give a copy of the signed statement and a copy of the registration information to the covered offender.

(b) No covered offender required to register under this chapter shall be discharged, released from any incarceration, or placed on parole or probation unless the requirements of subsection (a) above have been satisfied and all registration information required under 17 PNC Section 1702 has been obtained.

(c) Notwithstanding any law to the contrary, a copy of the signed statement and a copy of the registration information shall be transmitted to the Attorney General within three working days after the statement has been signed and registration information has been obtained.

(d) Following receipt of the information from the agency having jurisdiction over the covered offender, the Attorney General shall immediately ensure the information has been entered into the Republic of Palau's criminal record-keeping system, and notify the nearest police station or appropriate law enforcement agency having jurisdiction where the covered offender expects to reside.

(e) The Bureau of Public Safety shall transmit any covered offender registration information required by this chapter to the Attorney General, by entering the information into the Republic of Palau's criminal record-keeping system, if the information has not previously been entered into the system, and also shall provide the Attorney General with a photograph and fingerprints of the covered offender, taken at the time the covered offender registers with the Bureau of Public Safety. The covered offender shall report in person every year, within the thirty-day period following the offender's date of birth, to the nearest police station where the covered offender's residence is located, or to such other bureau or agency that may be designated by the Attorney General in rules adopted pursuant 6 PNC Chapter 1, the Administrative Procedure Act, for purposes of the administration of this subsection, and shall review the existing information in the registry that is within the offender's knowledge, correct any information that has changed or is inaccurate, provide any new information that may be required, and allow the police and such other bureau or agency designated by the Attorney General to take a current photograph of the offender.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 17 § 1703], modified, and § 3 repeals former § 1704.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 1705. Requirement to register a change of registration information; verification by the Attorney General.

(a) A covered offender required to register under this chapter, who changes any of the covered offender's registration information after an initial registration with the Attorney General, shall

notify the Attorney General of the new registration information in writing within three working days of the change. For purposes of this section, a person shall be deemed to have established a new residence during any period in which the person is absent from the person's registered residence for ten or more days. If, at any time, a covered offender required to register under this chapter is absent from the person's registered residence for ten or more days and fails to establish a new residence within the ten days that the covered offender is absent from their registered residence, the covered offender, in addition to notifying the Attorney General in writing within three working days that the covered offender no longer resides at the covered offender's registered residence, shall also report to any police station in the Republic of Palau by the last day of every month for verification of identity by photograph and fingerprint impression until the covered offender establishes a new residence and notifies the Attorney General in writing of the actual address of the new residence. Each time the covered offender reports to a police station, the covered offender shall disclose every location where the covered offender has slept in the previous month. If the new residence is in another jurisdiction that has a registration requirement, the person shall register with the designated law enforcement agency in the jurisdiction to which the person moves, within the period of time mandated by the new jurisdiction's sex offender registration laws.

(b) If the Attorney General cannot verify the address of or locate a covered offender required to be registered under this chapter, the Attorney General shall immediately notify the Bureau of Public Safety.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 17 § 1704], modified.

§ 1706. Notification by the Attorney General of changes in registration information.

Immediately, and in no event, not later than ten days after receiving notice of a change of registration information, the Attorney General shall report the change of registration information by a covered offender required to register under this chapter to the police station nearest to where the covered offender is residing. In the event the covered offender changes residence to another jurisdiction, the Attorney General also shall notify the law enforcement agency with which the person must register in the new jurisdiction, if the new jurisdiction has a registration requirement.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 17 § 1705], modified.

§ 1707. Good faith immunity.

Law enforcement agencies, employees of law enforcement agencies, and government officials of the Republic of Palau shall be immune from liability for good faith conduct under this chapter.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 17 § 1706], modified.

§ 1708. Failure to comply with covered offender registration requirements.

(a) A person commits the offense of failure to comply with covered offender registration requirements if the person is required to register under this chapter and the person intentionally, knowingly, or recklessly:

(1) fails to register with the Attorney General by failing to provide the Attorney General with the person's registration information;

(2) fails to report in person once every year, during the thirty-day period following the offender's date of birth, to the nearest police station where the covered offender's residence is located, or to such other department or agency designated by the Attorney General;

(3) while reporting to the nearest police station or such other department or agency designated by the Attorney General, fails to correct information in the registry within the offender's knowledge that has changed or is inaccurate regarding information required by 17 PNC Section 1702(d);

(4) while reporting to the nearest police station or such other department or agency designated by the Attorney General, fails to provide new information that may be required by 17 PNC Section 1702(d);

(5) while reporting to the nearest police station or such other department or agency designated by the Attorney General, does not allow the police or other designated department or agency to take a current photograph of the person;

(6) fails to register in person with the nearest police station having jurisdiction of the area where the covered offender resides or is present within three working days whenever the provisions of 17 PNC Section 1702(d) require the person to do so;

(7) fails to notify the Attorney General of a change of any of the covered offender's registration information in writing within three working days of the change;

(8) provides false registration information to the Attorney General or the Bureau of Public Safety;

(9) signs a statement verifying that all of the registration information is accurate and current when any of the registration information is not substantially accurate and current;

(10) having failed to establish a new residence within the ten days while absent from the person's registered residence for ten or more days:

(A) fails to notify the Attorney General in writing within three working days that the person no longer resides at the person's registered residence; or

(B) fails to report to a police station in the Republic of Palau by the last day of every month.

(b) Failure to comply with covered offender registration requirements is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 17 § 1707], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 1709. Termination of registration requirements.

(a) *Tier 3 offenses*.—A covered offender whose covered offense is any of the following offenses shall register for life and, except as provided in subsection (e), may not petition the court, in a civil proceeding, for termination of registration requirements:

(1) any offense set forth in 17 PNC Section 1603, 1604, 1607, or 21 PNC Sections 602 and 608;

(2) an offense set forth in 17 PNC Section 1501; provided that the offense involves kidnapping of a minor by someone other than a parent;

(3) an offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraphs (1) or (2);

(4) any criminal offense that is comparable to one of the offenses in paragraphs (1), (2), or (3); or

(5) any offense committed in another jurisdiction that is comparable to one of the offenses in paragraphs (1), (2), or (3).

(b) A repeat covered offender shall register for life and, except as provided in subsection (e), may not petition the court, in a civil proceeding, for termination of registration requirements.

(c) *Tier 2 offenses*.—A covered offender who has maintained a clean record for the previous twenty-five years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous twenty-five years, or for the portion of that twenty-five years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender's most serious covered offense is one of the following:

(1) any offense set forth in 17 PNC Section 1602, 1605, 1802, 1803, or 4803(a)(2);

(2) an offense set forth in 17 PNC Section 1501; provided that the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;

(3) an offense set forth in 17 PNC Section 1806 that includes an intent to promote or facilitate the commission of another felony covered offense as defined in 17 PNC Section 1701;

(4) an offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraphs (1), (2), or (3);

(5) any criminal offense that is comparable to one of the offenses in paragraphs (1), (2), (3), or (4); or

(6) any offense committed in another jurisdiction that is comparable to one of the offenses in paragraphs (1), (2), (3), or (4).

(d) *Tier 1 offenses*.—A covered offender who has maintained a clean record for the previous ten years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous ten years, or for the portion of that ten years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of

registration requirements; provided that the covered offender's most serious covered offense is one of the following:

(1) any offense set forth in 17 PNC Section 1606, 1609, 1804, 1808, 4413, 4803(a)(1), or 4804(a);

(2) an offense set forth in 17 PNC Section 1502 or 1503; provided that the offense involves unlawful imprisonment of a minor by someone other than a parent;

(3) an offense set forth in 17 PNC Section 1807 that includes an intent to promote or facilitate the commission of another covered offense as defined in 17 PNC Section 1701;

(4) an offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraphs (1), (2), or (3);

(5) any criminal offense that is comparable to one of the offenses in paragraphs (1), (2), (3), or (4); or

(6) any offense committed in another jurisdiction that is comparable to one of the offenses in paragraphs (1), (2), (3), or (4).

(e) Notwithstanding any other provisions in this section, any covered offender, forty years after the covered offender's date of release or sentencing, whichever is later, for the covered offender's most recent covered offense, may petition the court, in a civil proceeding, for termination of registration requirements.

(f) In the civil proceeding for termination of registration requirements, the Republic of Palau shall be represented by the Attorney General. For covered offenders who have never been convicted of a covered offense within the Republic of Palau, the Attorney General shall represent the Republic of Palau. The court may order this termination upon substantial evidence and more than proof by a preponderance of the evidence that:

(1) the covered offender has met the statutory requirements of eligibility to petition for termination;

(2) the covered offender has substantially complied with registration requirements;

(3) the covered offender is very unlikely to commit a covered offense ever again; and

(4) registration by the covered offender will not assist in protecting the safety of the public or any member thereof.

(g) A denial by the court for relief pursuant to a petition under this section shall preclude the filing of another petition for five years from the date of the last denial.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 17 § 1708], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 1710. Tolling.

The time periods provided for in this chapter shall be tolled during any period of time the covered offender is committed or recommitted to prison or confined to a halfway house, or an equivalent facility, pursuant to a parole or probation violation.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 17 § 1709], modified.

Chapter 18 — Child Exploitation

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 18 read §§ 1800–807, which has been renumbered to §§ 1801–1808 to conform with the Style of the Code.

§ 1801. Definitions.

For purposes of this chapter:

(1) "child pornography" means any pornographic visual representation, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexual conduct, if:

(A) the pornographic production of such visual representation involves the use of a minor engaging in sexual conduct; or

(B) the pornographic visual representation has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct.

(2) "community standards" means the standards of the Republic of Palau.

(3) "computer" means any electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, and includes all computer equipment connected or related to such a device in a computer system or computer network, but shall not include an automated typewriter or typesetter, a portable hand-held calculator, or other similar device.

(4) "disseminate" means to publish, sell, distribute, transmit, exhibit, present material, mail, ship, or transport by any means, including by computer, or to offer or agree to do the same.

(5) "lascivious" means tending to incite lust, to deprave the morals in respect to sexual relations, or to produce voluptuous or lewd emotions in the average person, applying contemporary community standards.

(6) "material" means any printed matter, visual representation, or sound recording and includes, but is not limited to, books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

(7) "minor" means any person less than eighteen years old.

(8) "performance" means any play, motion picture film, dance, or other exhibition performed before any audience.

(9) "pornographic" shall have the same meaning as in 17 PNC Section 4901.

(10) "produces" means to produce, direct, manufacture, issue, publish, or advertise.

(11) "sadomasochistic abuse" means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

(12) "sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a minor.

(13) "visual representation" refers to, but is not limited to, undeveloped film and videotape and data stored on computer disk or by electronic means that are capable of conversion into a visual image.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1801 and RPPL 9-21 § 5 [Chapter 18 § 1800], modified, adds section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 1802. Promoting child exploitation in the first degree.

(a) A person commits the offense of promoting child exploitation in the first degree if, knowing or having reason to know its character and content, the person:

(1) produces or participates in the preparation of child pornography;

(2) produces or participates in the preparation of pornographic material that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct; or

(3) engages in a pornographic performance that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(b) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise contained in the pornographic material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

(c) Promoting child exploitation in the first degree is a class A felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 18 § 1801], modified.

§ 1803. Promoting child exploitation in the second degree.

(a) A person commits the offense of promoting child exploitation in the second degree if, knowing or having reason to know its character and content, the person:

(1) disseminates child pornography;

(2) reproduces child pornography with intent to disseminate;

(3) disseminates any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography; or

(4) disseminates any pornographic material that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(b) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material. The fact that the person who was employed, used, or otherwise contained in the

pornographic material was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

(c) Promoting child exploitation in the second degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 18 § 1802], modified.

§ 1804. Promoting child exploitation in the third degree.

(a) A person commits the offense of promoting child exploitation in the third degree if, knowing or having reason to know its character and content, the person possesses:
   (1) child pornography;
   (2) any book, magazine, periodical, film, videotape, computer disk, electronically stored data, or any other material that contains an image of child pornography; or
   (3) any pornographic material that employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(b) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material. The fact that the person who was employed, used, or otherwise contained in the pornographic material was, at that time, a minor is prima facie evidence that the defendant knew the person to be a minor.

(c) Promoting child exploitation in the third degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 18 § 1803], modified.

§ 1805. Affirmative defense to promoting child exploitation.

It shall be an affirmative defense to a charge of promoting child exploitation in the third degree that the defendant:

   (1) possessed less than three images of child pornography; and
   (2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof:
      (A) took reasonable steps to destroy each such image; or
      (B) reported the matter to a law enforcement agency and afforded that agency access to each such image.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 18 § 1804], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 1806. Electronic enticement of a child in the first degree.

(a) Any person who, using a computer or any other electronic device:

(1) intentionally or knowingly communicates:

(A) with a minor known by the person to be under the age of eighteen years;

(B) with another person, in reckless disregard of the risk that the other person is under the age of eighteen years, and the other person is under the age of eighteen years; or

(C) with another person who represents that person to be under the age of eighteen years;

(2) with the intent to promote or facilitate the commission of a felony:

(A) that is a murder in the first or second degree;

(B) that is a class A felony; or

(C) that is another covered offense as defined in 17 PNC Section 1701, agrees to meet with the minor, or with another person who represents that person to be a minor under the age of eighteen years; and

(3) intentionally or knowingly travels to the agreed upon meeting place at the agreed upon meeting time, is guilty of electronic enticement of a child in the first degree.

(b) Electronic enticement of a child in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 18 § 1805], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format

§ 1807. Electronic enticement of a child in the second degree.

(a) Any person who, using a computer or any other electronic device:

(1) intentionally or knowingly communicates:

(A) with a minor known by the person to be under the age of eighteen years;

(B) with another person, in reckless disregard of the risk that the other person is under the age of eighteen years, and the other person is under the age of eighteen years; or

(C) with another person who represents that person to be under the age of eighteen years; and

(2) with the intent to promote or facilitate the commission of a felony, agrees to meet with the minor, or with another person who represents that person to be a minor under the age of eighteen years; and

(3) intentionally or knowingly travels to the agreed upon meeting place at the agreed upon meeting time; is guilty of electronic enticement of a child in the second degree.

(b) Electronic enticement of a child in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 18 § 1806], modified.

§ 1808. Indecent electronic display to a child.

(a) Any person who intentionally masturbates or intentionally exposes the genitals in a lewd or lascivious manner live over a computer online service, internet service, or local bulletin board service and who knows or should know or has reason to believe that the transmission is viewed on a computer or other electronic device by:

(1) a minor known by the person to be under the age of eighteen years;

(2) another person, in reckless disregard of the risk that the other person is under the age of eighteen years, and the other person is under the age of eighteen years; or

(3) another person who represents that person to be under the age of eighteen years, is guilty of indecent electronic display to a child.

(b) Indecent electronic display to a child is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 18 § 1807], modified.

Chapter 19 — Extortion

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 19 read §§ 1900–1909, which has been renumbered to §§ 1901–1910 to conform with the Style of the Code.

In RPPL 9-21 Chapter 19, there are several references to "this part" even though RPPL 9-21 does not have parts under Chapter 19. RPPL 9-21 references to "part" have therefore been changed to "chapter" to conform with the Style of the Code.

§ 1901. Definitions.

For the purposes of this chapter:

(1) "an extortionate means" is any means that involves the use, or an express or implicit threat of the use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(2) "creditor", with reference to any given extension of credit, refers to any person making that extension of credit, or to any person claiming by, under, or through any person making that extension of credit.

(3) "debtor", with reference to any given extension of credit, refers to any person to whom that extension of credit is made, or to any person who guarantees the repayment of that extension of credit, or in any manner undertakes to indemnify the creditor against loss resulting from the failure of any person to whom that extension of credit is made to repay the same.

(4) "repayment of any extension of credit" includes the repayment, satisfaction, or discharge in whole or in part of any debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(5) "to collect an extension of credit" means to induce in any way any person to make repayment thereof.

(6) "to extend credit" means to make or renew any loan or to enter into any agreement, tacit or express, whereby the repayment or satisfaction of any debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or will be deferred.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1901 and RPPL 9-21 § 5 [Chapter 19 § 1900], modified, adds section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 1902. Extortionate extension of credit; prima facie evidence.

(a) An extortionate extension of credit is any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time it is made that delay in making

repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(b) In any prosecution under this chapter, if it is shown that all of the following factors were present in connection with the extension of credit in question, there is prima facie evidence that the extension of credit was extortionate, but this section is nonexclusive and in no way limits the effect or applicability of subsection (a):

(1) the repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable, through civil judicial processes against the debtor:

(A) in the jurisdiction within which the debtor, if a natural person, resided; or

(B) in every jurisdiction within which the debtor, if other than a natural person, was incorporated or qualified to do business at the time the extension of credit was made;

(2) the extension of credit was made at a rate of interest in excess of a yearly rate of forty-five per cent (45%) calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which payment is applied first to the accumulated interest and the balance applied to the unpaid principal;

(3) at the time the extension of credit was made, the debtor reasonably believed that either:

(A) one or more extensions of credit by the creditor had been collected or attempted to be collected by extortionate means, or the nonrepayment thereof had been punished by extortionate means; or

(B) the creditor had a reputation for the use of extortionate means to collect extensions of credit or to punish the nonrepayment thereof;

(4) upon the making of the extension of credit, the total of the extensions of credit by the creditor to the debtor then outstanding, including any unpaid interest or similar charges, exceeded one hundred dollars ($100).

(c) In any prosecution under this chapter, if evidence has been introduced tending to show the existence of any of the circumstances described in subsection (b)(1) or (b)(2) of this section, and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing the understanding of the debtor and the creditor at the time the extension of credit was made, the court may in its discretion allow evidence to be introduced tending to show the reputation as to collection practices of the creditor in any community of which the debtor was a member at the time of the extension.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1902 and RPPL 9-21 § 5 [Chapter 19 § 1901], modified, adds section.

Notes
The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 1903. Financing extortionate extensions of credit.

"Financing extortionate extensions of credit" includes willfully advancing money or property, whether as a gift, as a loan, as an investment, pursuant to a partnership or profit-sharing agreement, or otherwise to any person, with reasonable grounds to believe that it is the intention of that person to use the money or property so advanced directly or indirectly for the purpose of making extortionate extensions of credit.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1903 and RPPL 9-21 § 5 [Chapter 19 § 1902], modified, adds section.

§ 1904. Collection of extensions of credit by extortionate means.

(a) "Collection of extensions of credit by extortionate means" includes knowingly participating in any way, or conspiring to do so, in the use of any extortionate means:
  (1) to collect or attempt to collect any extension of credit; or
  (2) to punish any person for the nonrepayment thereof.

(b) In any prosecution under this chapter, for the purpose of showing an implicit threat as a means of collection, evidence may be introduced tending to show that one or more extensions of credit by the creditor were, to the knowledge of the person against whom the implicit threat was alleged to have been made, collected or attempted to be collected by extortionate means or that the nonrepayment thereof was punished by extortionate means.

(c) In any prosecution under this chapter, if evidence has been introduced tending to show the existence, at the time the extension of credit in question was made, of the circumstances described in subsection (b)(1) or subsection (b)(2) of 17 PNC Section 1902 and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing that words or other means of communication, shown to have been employed as a means of collection, in fact carried an express or implicit threat, the court may in its discretion allow evidence to be introduced tending to show the reputation of the defendant in any community of which the person against whom the alleged threat was made was a member at the time of collection or attempt at collection.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1904 and RPPL 9-21 § 5 [Chapter 19 § 1903], modified, adds section.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 1905. Extortion.

A person commits extortion if the person does any of the following:

(1) obtains, or exerts control over, the property, labor, or services of another with intent to deprive another of property, labor, or services by threatening by word or conduct to:
  (A) cause bodily injury in the future to the person threatened or to any other person;

(B) cause damage to property or cause damage, as defined in 17 PNC Section 3101, to a computer, computer system, or computer network;

(C) subject the person threatened or any other person to physical confinement or restraint;

(D) commit a penal offense;

(E) accuse some person of any offense or cause a penal charge to be instituted against some person;

(F) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt, or ridicule, or to impair the threatened person's credit or business repute;

(G) reveal any information sought to be concealed by the person threatened or any other person;

(H) testify or provide information or withhold testimony or information with respect to another's legal claim or defense;

(I) take or withhold action as a public servant, or cause a public servant to take or withhold such action;

(J) bring about or continue a strike, boycott, or other similar collective action, to obtain property that is not demanded or received for the benefit of the group that the defendant purports to represent;

(K) destroy, conceal, remove, confiscate, or possess any actual or purported passport, or any other actual or purported government identification document, or other immigration document, of another person; or

(L) do any other act that would not in itself substantially benefit the defendant but that is calculated to harm substantially some person with respect to the threatened person's health, safety, business, calling, career, financial condition, reputation, or personal relationships;

(2) intentionally compels or induces another person to engage in conduct from which another has a legal right to abstain or to abstain from conduct in which another has a legal right to engage by threatening by word or conduct to do any of the actions set forth in paragraph (1)(A) through (L); or

(3) makes or finances any extortionate extension of credit, or collects any extension of credit by extortionate means.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1905 and RPPL 9-21 § 5 [Chapter 19 § 1904], modified, adds section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 1906. Extortion in the first degree.

(a) A person commits the offense of extortion in the first degree if the person commits extortion:

(1) of property, labor, or services the value of which exceeds two hundred dollars ($200) in total during any twelve-month period; or

(2) by making or financing any extortionate extension of credit, or by collecting any extension of credit by extortionate means.

(b) Extortion in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1906 and RPPL 9-21 § 5 [Chapter 19 § 1905], modified, adds section.

§ 1907. Extortion in the second degree.

(a) A person commits the offense of extortion in the second degree if the person commits extortion:

(1) of property, labor, or services the value of which exceeds fifty dollars ($50) during any twelve-month period; or

(2) as set forth in 17 PNC Section 1905(2).

(b) Extortion in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 1907 and RPPL 9-21 § 5 [Chapter 19 § 1906], modified, adds section.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 1908. Extortion in the third degree.

(a) A person commits the offense of extortion in the third degree if the person commits extortion of property, labor, or services.

(b) Extortion in the third degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 19 § 1907], modified.

§ 1909. Firearms, explosives, and dangerous weapons.

Extortion in any degree is a class A felony when a firearm, explosive, or any dangerous weapon is immediately available and is physically used as part of the threat.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 19 § 1908], modified.

§ 1910. Defenses to extortion.

(a) It is a defense to a prosecution for extortion as defined by paragraph (1) of 17 PNC Section 1905 that the defendant:

(1) was unaware that the property or service was that of another; or

(2) believed that the defendant was entitled to the property or services under a claim or right or that the defendant was authorized, by the owner or by law, to obtain or exert control as the defendant did.

(b) If the owner of the property is the defendant's spouse, it is a defense to a prosecution for extortion under paragraph (1) of 17 PNC Section 1905 that:

(1) the property that is obtained or over which unauthorized control is exerted constitutes household belongings; and

(2) the defendant and the defendant's spouse were living together at the time of the conduct.

(c) "Household belongings" means furniture, personal effects, vehicles, or money or its equivalent in amounts customarily used for household purposes, and other property usually found in and about the common dwelling and accessible to its occupants.

(d) It is an affirmative defense to a prosecution for extortion, as defined in 17 PNC Section 1905, that the defendant believed the threatened accusation, penal charge, or exposure to be true, or the proposed action of a public servant was justified, and that the defendant's sole intention was to compel or induce the victim to give property or services to the defendant due the defendant as restitution or indemnification for harm done, or as compensation for property obtained or lawful services performed, or to induce the victim to take reasonable action to prevent or to remedy the wrong which was the subject of the threatened accusation, charge, exposure, or action of a public servant in circumstances to which the threat relates.

(e) In a prosecution for extortion as defined in 17 PNC Section 1905, it is not a defense that the defendant has an interest in the property if the owner has an interest in the property to which the defendant is not entitled.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 19 § 1909], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

Chapter 20 — Labor Trafficking

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 20 read §§ 2000–2006, which has been renumbered to §§ 2001–2007 to conform with the Style of the Code.

In RPPL 9-21 Chapter 20, there are several references to "this part" even though RPPL 9-21 does not have parts under Chapter 20. RPPL 9-21 references to "part" have therefore been changed to "chapter" to conform with the Style of the Code.

§ 2001. Definitions.

As used in this chapter:

(1) "deadly force" means force that the actor uses with the intent of causing or that the actor knows to create a substantial risk of causing death or serious bodily harm. Intentionally using a weapon capable of producing death or serious bodily injury constitutes deadly force. A threat to cause death or serious bodily injury, by the production of a weapon or otherwise, so long as the actor's intent is limited to creating an apprehension that the actor will use deadly force if necessary, does not constitute deadly force.

(2) "force" means any bodily impact, restraint, or confinement, or the threat thereof.

(3) "labor" means work of economic or financial value. Prostitution-related and obscenity-related activities as set forth in 17 PNC Division 7 of this Penal Code are not forms of "labor" under this chapter.

(4) "services" means a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor or a third party. Prostitution-related and obscenity-related activities as set forth in 17 PNC Division 7 of this Penal Code are not forms of "services" under this chapter.

(5) "unlawful force" means force that is employed without the consent of the person against whom it is directed and the employment of which constitutes an offense or would constitute an offense except for a defense not amounting to a justification to use the force. Assent constitutes consent, within the meaning of this section, whether or not it otherwise is legally effective, except assent to the infliction of death or serious or substantial bodily injury.

(6) "venture" means a business relationship between two or more parties to undertake economic activity together.

(7) "victim" means the person against whom an offense specified in 17 PNC Section 2002 or 2003 has been committed.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 2001 and RPPL 9-21 § 5 [Chapter 20 § 2000], modified, adds section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 2002. Labor trafficking in the first degree.

(a) A person commits the offense of labor trafficking in the first degree if the person intentionally or knowingly provides or obtains, or attempts to provide or obtain, another person for labor or services by any of the following means committed against the other person:

(1) any of the acts constituting extortion as described in 17 PNC Section 1905, except that for purposes of this paragraph "labor" and "services" shall be as defined in 17 PNC Section 2001 above;

(2) the acts constituting kidnapping as described in 17 PNC Section 1501(a)(1) through (7), except that for purposes of this paragraph "labor" and "services" shall be as defined in 17 PNC Section 2001 above;

(3) the acts described in 17 PNC Section 1502(a) or 1503, relating to unlawful imprisonment;

(4) the acts described in 17 PNC Sections 1603, 1604, or 1605, relating to sexual assault in the first, second, or third degree;

(5) force, deadly force, or unlawful force;

(6) the acts described in the definition of deception pursuant to 17 PNC Section 2301, or fraud, which means making material false statements, misstatements, or omissions to induce or maintain the person to engage or continue to engage in the labor or services;

(7) requiring that labor or services be performed to retire, repay, or service a real or purported debt, if performing the labor or services is the exclusive method allowed to retire, repay, or service the debt and the indebted person is required to repay the debt with direct labor in place of currency; provided that this shall not include labor or services performed by a child for the child's parent or guardian;

(8) the acts described in either 17 PNC Sections 1401, 1402, or 1403, relating to assault;

(9) withholding any of the person's government-issued identification documents with the intent to impede the movement of the person;

(10) using any scheme, plan, or pattern intended to cause the person to believe that if the person did not perform the labor or services, then the person or a friend or a member of the person's family would suffer serious harm, serious financial loss, or physical restraint; or

(11) using or threatening to use any form of domination, restraint, or control over the person that, given the totality of the circumstances, would have the reasonably foreseeable effect of causing the person to engage in or to remain engaged in the labor or services.

(b) Labor trafficking in the first degree is a class A felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 20 § 2001], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

Supreme Court Cases
Khair v. Republic of Palau, 2019 Palau 18 ¶¶ 4, 6, 12, 20, 21, 24, 25 (App. Div.).

§ 2003. Labor trafficking in the second degree.

(a) A person commits the offense of labor trafficking in the second degree if the person knowingly:

(1) acts as an individual or uses a licensed business or business enterprise to aid another in a venture knowing that the other person in that venture is committing the offense of labor trafficking in the first degree; or

(2) benefits, financially or by receiving something of value, from participation in a venture knowing or in reckless disregard of the fact that another person has engaged in any act described in paragraph (1) in the course of that venture or that another person in that venture is committing the offense of labor trafficking in the first degree.

(b) Labor trafficking in the second degree is a class B felony; provided that if a violation of subsection (a) involves kidnapping or an attempt to kidnap, sexual assault in the first, sexual assault in the second, or sexual assault in the third degree, or the attempt to commit sexual assault in the first, second, or third degree, or an attempt to cause the death of a person, or if a death results, the offense shall be a class A felony.

(c) Upon conviction of a defendant for an offense under subsection (a), the court shall also order that any and all business licenses issued by the Republic of Palau be revoked for the business or enterprise that the defendant used to aid in the offense of labor trafficking in the second degree; provided that the court, in its discretion, may reinstate a business license upon petition to the court by any remaining owner or partner of the business or enterprise who was not convicted of an offense under this section or Section 2002.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 20 § 2002], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

The reference in subsection (a)(2) to "paragraph (1)" read "paragraph (a)" in RPPL 9-21, the Code Commission changed it to comply with the likely intent of the legislation.

Supreme Court Cases
Khair v. Republic of Palau, 2019 Palau 18 ¶¶ 4, 26, 27 (App. Div.).

§ 2004. Additional sentencing considerations; victims held in servitude.

(a) In addition to the factors set forth in 17 PNC Sections 618 and 632, when determining the particular sentence to be imposed on a defendant convicted under 17 PNC Section 2002 or 2003, the court shall consider:

(1) the time for which the victim was held in servitude; and

(2) the number of victims involved in the offense for which the defendant is convicted.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 20 § 2003], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 2005. Restitution for victims of labor trafficking.

(a) In addition to any other penalty, and notwithstanding a victim's failure to request restitution under 17 PNC Section 657(b), the court shall order restitution to be paid to the victim, consisting of an amount that is the greater of:

(1) the total gross income or value to the defendant of the victim's labor or services; or

(2) the value of the victim's labor or services, as guaranteed under the minimum wage provision of 30 PNC Section 125, whichever is greater.

(b) The return of the victim to the victim's home country or other absence of the victim from the jurisdiction shall not relieve the defendant of the defendant's restitution obligation.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 20 § 2004], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 2006. Nonpayment of wages.

(a) A person commits the offense of nonpayment of wages if the person, in the capacity as an employer of an employee, intentionally or knowingly or with intent to defraud fails or refuses to pay wages to the employee, except where required by statute or by court process. In addition to any other penalty, a person convicted of nonpayment of wages shall be fined not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000) for each offense.

(b) Nonpayment of wages is:

(1) a class C felony, if the amount owed to the employee is equal to or greater than two thousand dollars ($2,000) or if the defendant convicted of nonpayment of wages falsely denies the amount or validity of the wages owed; or

(2) a misdemeanor, if the amount owed to the employee is less than two thousand dollars ($2,000).

(c) A person commits a separate offense under this section for each pay period during which the employee earned wages that the person failed or refused to pay the employee. If no set pay periods were agreed upon between the person and the employee at the time the employee commenced the work, then each "pay period" shall be deemed to be bi-weekly.

(d) In addition to any other penalty, the court shall order restitution to be paid to the employee, consisting of an amount that is the greater of:

(1) the wages earned by the employee that were unpaid by the person convicted of nonpayment of wages; or

(2) the value of the employee's labor or services, as guaranteed under the minimum wage provisions of 30 PNC Section 125, whichever is greater.

(e) An employee who is the victim of nonpayment of wages may bring a civil action to recover all wages owed by the defendant convicted of nonpayment of wages.

(f) For purposes of this section:

(1) "employee" means any person working for another for hire, including an individual employed in domestic service or at a family's or person's home, any individual employed by the individual's spouse, or by an independent contractor.

(2) "person" includes any individual, partnership, association, joint-stock company, trust, corporation, the personal representative of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any persons.

(3) "wages" means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission, or other basis of calculation.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 20 § 2005], modified.

§ 2007. Unlawful conduct with respect to documents.

(a) A person commits unlawful conduct with respect to documents if the person knowingly:

(1) destroys, conceals, removes, confiscates, or possesses any actual or purported government identification document of another person:

(A) in the course of a violation or attempt to commit an offense under 17 PNC Section 2002 or 2003; or

(B) to prevent or restrict, or in an attempt to prevent or restrict, without lawful authority, the ability of the other person to move or travel in order to maintain the labor or services of the other person, when the person is or has been the victim of an offense under 17 PNC Section 2002 or 2003; or

(2) Destroys, conceals, removes, or confiscates any actual or purported government identification document of an employee.

(b) Unlawful conduct with respect to documents is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 20 § 2006], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

Chapter 21 — Anti-Human Smuggling and Human Trafficking

Chapter Notes

Notes
Former Chapter 39 of Title 17 of the Palau National Code entitled "Anti-People Smuggling and Trafficking" is renumbered as Chapter 21 of Title 17 of the Palau National Code by RPPL 9-21 § 4(f) and § 5.

§ 2101. Short title.

This chapter shall be known and may be cited as the "Anti-Human Smuggling and Human Trafficking Act".

Section Notes

Sources
RPPL 7-5 § 1, modified, adds section.
RPPL 9-21 § 3 repeals former § 2101.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2100], modified, recodifies section from 17 PNC § 3901 to 17 PNC § 2101.
RPPL 11-28 § 3 amends section.

§ 2102. Definitions.

[In this chapter, the following terms have the following meanings:]

(1) "abuse or threatened abuse of legal process" means the unlawful use or threatened use of a law or legal process, whether administrative, civil, or criminal, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) "child" means a person who is less than eighteen (18) years of age.

(3) "coercion" means:

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.

(4) "commercial carrier" means a company, or the owner, operator or master of any means of transport, any vessel or aircraft that engages in the transportation of cargo or passengers for commercial gain.

(5) "company" means a corporation, unincorporated association, partnership, or other entity that is not an individual.

(6) "debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or the personal services of a person under his or her control as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(7) "forced labor" includes "involuntary servitude" and means a condition of servitude induced by means of Coercion.

(8) "exploitation" includes, but is not limited to, domestic servitude, sexual servitude, exploitation of another person by and through prostitution, forced labor or services, or slavery and practices similar to slavery, debt bondage, forced marriage, the removal of organs, or other forms of coercion.

(9) "travel document fraud" means a passport, travel and/or any other identity document that:

(A) has been made or altered in a material way, by a person other than a person or agency lawfully authorized to make or issue the passport, travel and/or any other identity document on behalf of the country that issued the document; or

(B) has been issued or obtained through misrepresentation, bribery, corruption, duress, or in any other unlawful manner; or

(C) is being improperly used by a person other than the rightful holder.

(10) "human smuggling" means arranging or assisting a person's illegal entry into any country of which the person is not a citizen, including the Republic of Palau.

(11) "human trafficking" means the recruitment, transportation, transfer, harboring or receipt of a person, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. A trafficked person need not be physically transported from one location to another for human trafficking to occur.

(12) "illegal entry" means crossing the border of the Republic of Palau or any other country without complying with the requirements for lawful entry of that country.

(13) "receiving country" means any country into which a trafficked person is brought as part of an act of human trafficking.

(14) "smuggled person" means any person who is a victim or object of an act of human smuggling, regardless of whether that person participated in the human smuggling.

(15) "trafficked person" means any person who is the victim or object of an act of human trafficking.

Section Notes

Sources
RPPL 7-5 § 2.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2101], modified, recodifies section from 17 PNC § 3902 to 17 PNC §2102.
RPPL 11-28 § 3 amends section.

Notes
The Code Commission added the bracketed location clause based on RPPL 11-28 and redesignated the subsections as paragraphs to comply with the Style of the Code.

Supreme Court Cases
Khair v. Republic of Palau, 2019 Palau 18 ¶¶ 26 n.7, 30 (App. Div.).

§ 2103. Offense of human smuggling.

Every person who purposefully or knowingly engages in human smuggling shall be guilty of human smuggling regardless of whether the smuggled person arrives in the receiving country, and upon conviction thereof shall be fined not more than twelve thousand five hundred dollars ($12,500) and imprisoned not less than one (1) year or more than ten (10) years.

Section Notes

Sources
RPPL 7-5 § 3, modified.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2102], modified, recodifies section from 17 PNC § 3903 to 17 PNC §2103.
RPPL 11-28 § 3, modified, amends section.

Supreme Court Cases
Khair v. Republic of Palau, 2019 Palau 18 ¶ 26 n.7 (App. Div.).

§ 2104. Offense of aggravated human smuggling.

Every person who purposefully or knowingly engages in human smuggling under circumstances in which the life or safety of the smuggled person is, or is likely to be, endangered shall be guilty of aggravated human smuggling regardless of whether the smuggled person arrives in the receiving country, and upon conviction thereof shall be fined not more than twenty-five thousand dollars ($25,000) and imprisoned not less than five (5) years or more than fifteen (15) years.

Section Notes

Sources
RPPL 7-5 § 4, modified.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2103], modified, recodifies section from 17 PNC § 3904 to 17 PNC §2104.
RPPL 11-28 § 3, modified, amends section.

§ 2105. Travel Document Fraud.

Every person who purposefully or knowingly makes, obtains, gives, sells, or possesses a fraudulent passport, travel and/or any other identity document for the purpose of facilitating human smuggling or facilitating the continued presence of a smuggled person in a receiving country shall be guilty of travel document fraud, and upon conviction thereof shall be fined not more than twelve thousand five hundred dollars ($12,500) and imprisoned not less than one (1) year or more than ten (10) years.

Section Notes

Sources
RPPL 7-5 § 5, modified.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2104], modified, recodifies section from 17 PNC § 3905 to 17 PNC §2105.
RPPL 11-28 § 3, modified, amends section.

§ 2106. Offense of human trafficking.

Every person who purposefully or knowingly engages in Human Trafficking shall be guilty of human trafficking, and upon conviction thereof shall be fined not more than one hundred twenty-

five thousand dollars ($125,000) and imprisoned not less than three (3) years or more than twenty-five (25) years.

Section Notes

Sources
RPPL 7-5 § 6, modified.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2105], modified, recodifies section from 17 PNC § 3906 to 17 PNC §2106.
RPPL 11-28 § 3, modified, amends section.

Notes
Khair v. Republic of Palau, 2019 Palau 18 ¶¶ 4, 28, 29 (App. Div.).

§ 2107. Offense of aggravated human trafficking.

Every person who purposefully or knowingly engages in human trafficking under circumstances in which the life or safety of the trafficked person is, or is likely to be, endangered shall be guilty of aggravated human trafficking, and upon conviction thereof shall be fined not more than one hundred seventy-five thousand dollars ($175,000) and imprisoned not less than five (5) years or more than thirty (30) years.

Section Notes

Sources
RPPL 7-5 § 7, modified.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2106], modified, recodifies section from 17 PNC § 3907 to 17 PNC §2107.
RPPL 11-28 § 3, modified, amends section.

§ 2108. Offense of trafficking in children.

Every person who purposefully or knowingly engages in human trafficking of a child by any means for the purposes of exploitation (having knowledge that a child is being exploited) shall be guilty of trafficking in children and upon conviction thereof, shall be fined not more than two hundred fifty thousand dollars ($250,000) and imprisoned for not less than five (5) years or more than twenty-five (25) years.

Section Notes

Sources
RPPL 7-5 § 8, modified.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2107], modified, recodifies section from 17 PNC § 3908 to 17 PNC §2108.
RPPL 11-28 § 3 amends section.

Supreme Court Cases
Khair v. Republic of Palau, 2019 Palau 18 ¶¶ 4, 28, 29 (App. Div.).

§ 2109. Offense of aggravated trafficking in children.

Every person who purposefully or knowingly engages in trafficking in children under circumstances in which the life or safety of the trafficked child is, or is likely to be, endangered shall be guilty of aggravated human trafficking, and upon conviction thereof shall be fined not more than three hundred seventy-five thousand dollars ($375,000) and imprisoned for not less than ten (10) years or more than fifty (50) years without the possibility of parole.

Section Notes

Sources
RPPL 7-5 § 9, modified.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2108], modified, recodifies section from 17 PNC § 3909 to 17 PNC §2109.
RPPL 11-28 § 3 amends section.

§ 2110. Offense of exploiting a trafficked person.

Every person who purposefully or knowingly engages in, participates in, or profits from the exploitation of a trafficked person shall be guilty of exploitation of a trafficked person and, upon conviction thereof, shall be fined not more than twenty-five thousand dollars ($25,000) and imprisoned for not less than one (1) year or more than ten (10) years.

Section Notes

Sources
RPPL 7-5 § 10.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2109], modified, recodifies section from 17 PNC § 3910 to 17 PNC §2110.
RPPL 11-28 § 3 amends section.

§ 2111. Offense of exploiting a trafficked child.

Every person who purposefully or knowingly engages in, or profits from the exploitation of a trafficked child shall be guilt of exploitation of a trafficked child and, upon conviction thereof, shall be fined not more than fifty thousand dollars ($50,000) and imprisoned for not less than two (2) years or more than ten (10) years.

Section Notes

Sources
RPPL 7-5 § 11, modified.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2110], modified, recodifies section from 17 PNC § 3911 to 17 PNC §2111.
RPPL 11-28 § 3 amends section.

§ 2112. Consent of smuggled, trafficked, or exploited person irrelevant.

For Sections 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, and 2111 of this chapter, it is not a defense that the smuggled, trafficked, or exploited person or child consented to the smuggling, trafficking, or exploitation.

Section Notes

Sources
RPPL 7-5 § 12, modified.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2111], modified, recodifies section from 17 PNC § 3912 to 17 PNC § 2112.
RPPL 11-28 § 3 amends section.

§ 2113. Immunity of smuggled, trafficked, or exploited person.

A smuggled, trafficked, or exploited person shall not be subject to criminal prosecution with respect to:

(1) the act of that person's human smuggling, trafficking, or exploitation;

(2) that person's period of unlawful residence in the receiving country;

(3) that person's procurement or possession of any [travel document fraud] which he or she obtained, or with which he or she was supplied, for the purpose of entering the receiving country;

(4) that person's illegal entry into the receiving country; and

(5) any non-violent criminal offense the smuggled, trafficked, or exploited person or child was forced to commit by the individual or individuals responsible for his or her smuggling, trafficking or exploitation, except for offenses initiated by the smuggled, trafficked, or exploited person.

Section Notes

Sources
RPPL 7-5 § 13.
RPPL 9-21 § 4(f) and § 5 [Chapter 21 § 2112], modified, recodifies section from 17 PNC § 3913 to 17 PNC § 2113.
RPPL 11-28 § 3 amends section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

The bracketed [travel document fraud] in subsection (c) replaced "fraudulent passport or identity documents" in the original legislation as per amendment by RPPL 11-28 § 3.

§ 2114. Penalty for non-citizen.

Every non-citizen convicted under any section of this chapter shall have his or her entry permit revoked and shall be deported upon completion of any sentenced imposed by the court or upon the grant of parole and prohibited from ever reentering the Republic of Palau without written permission from the Minister of State. The Minister of Justice shall promulgate regulations for the deportation of persons pursuant to this chapter.

Section Notes

Sources
RPPL 11-28 § 3.

§ 2115. Scope of application.

The offenses described in Sections 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, and 2011 of this chapter apply, regardless of whether the conduct constituting the offense took place inside or outside the Republic of Palau if:

(1) the Republic of Palau is the receiving country, the exploitation occurs in the Republic of Palau, or any act in furtherance of the smuggling, trafficking, or exploitation of the smuggled or trafficked person occurs in the Republic of Palau;

(2) the receiving country is a foreign country but the smuggling, trafficking, or exploitation started in the Republic of Palau or transits the Republic of Palau;

(3) the person who engages in the smuggling, trafficking, or exploitation is a citizen or resident of the Republic of Palau; or

(4) the person who has been smuggled, trafficked, or exploited is aboard a vessel flagged in the Republic of Palau or within the territorial waters of the Republic of Palau.

Section Notes

Sources
RPPL 11-28 § 3, modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 2116. Witness confidentiality; victim protection.

Court and administrative records in human or child smuggling, trafficking, and exploitation cases shall be sealed. The Palau Supreme Court shall establish rules of procedure to protect the identity of any person who is a witness to or victim of human or child smuggling, trafficking, or exploitation. The Ministry of Justice shall establish policies and procedures to protect victims of human or child smuggling, trafficking, or exploitation during the investigation, to provide victims information on relevant court and administrative proceedings, and to inform victims of their role in the various stages of any criminal or administrative proceeding. The Ministry of Justice shall maintain a registry of individuals who have been convicted of trafficking offenses.

Section Notes

Sources
RPPL 11-28 § 3, modified.

§ 2117. Obligation of commercial carriers.

(a) If a commercial carrier carries a person into the Republic of Palau and, upon entry into the Republic of Palau, the person does not have the passport and/or travel documents required for lawful entry, the commercial carrier shall be liable to pay the costs of the person's detention in, and removal from, the Republic of Palau unless:
    (1) the carrier had reasonable grounds to believe that the documents that the person had were the travel documents required for lawful entry of that person into the Republic of Palau; or
    (2) the person possessed the passport and/or travel documents required for lawful entry into the Republic of Palau when that person boarded, or last boarded, the means of transport to travel to the Republic of Palau; or
    (3) entry into the Republic of Palau occurred only because of illness of or injury to person on board, stress of weather, or other circumstances beyond the control of the commercial carrier.

(b) A commercial carrier who is found to have allowed entry into the Republic of Palau of a person who does not have a passport and/or travel documents required for lawful entry and the exceptions listed in subsection (a)(l)–(3) do not apply shall be subject to an administrative fine of ten thousand dollars ($10,000) per person brought into the Republic of Palau.

Section Notes

Sources
RPPL 11-28 § 3, modified.

§ 2118. Not eligible for probation or parole.

A person convicted of an offense described in Sections 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, or 2111 shall not be eligible for a sentence of probation. A person convicted of an offense described in Sections 2103, 2104, 2105, 2106, 2107, 2108, 2110, or 2111 shall not be eligible for parole until they have served one-half of their sentence. A person convicted of an offense described in Section 2109 shall not be eligible for parole.

Section Notes

Sources
RPPL 11-28 § 3, modified.

§ 2119. Civil remedy provided.

(a) A company that knew or should have known that it was profiting from the exploitation of a smuggled, trafficked, or exploited person shall be civilly liable to the smuggled, trafficked, or exploited person in an amount not less than the greater of:
   (1) the amount the company profited from the smuggled, trafficked, or exploited person; or
   (2) the fair market value of the services provided by the smuggled, trafficked, or exploited person.

(b) For the purposes of this section, "profit" means all benefit received from the smuggled, trafficked, or exploited person whether monetary or non-monetary.

(c) This section does not limit the other remedies that may be available to the smuggled, trafficked, or exploited person. All financial remedies, including restitution and civil suit through this section, for smuggling, trafficking, or exploiting any person, shall be cumulative.

Section Notes

Sources
RPPL 11-28 § 3, modified.

§ 2120. Kingpin principle.

(a) For purposes of this section, the term "Kingpin" means an individual who orchestrates an international criminal conspiracy.

(b) The Olbiil Era Kelulau finds that the most serious cases of human trafficking or smuggling worldwide are orchestrated by, and that such cases pose difficult law enforcement challenges.

(c) In evaluating the utilization of law enforcement and prosecutorial resources, all government agencies of the Republic of Palau are to consider the apprehension, prosecution, and incarceration of Kingpins as deserving attention at the highest level.

(d) In evaluating the use of plea bargains, as well as the exercise of prosecutorial discretion, prosecutorial agencies of the Republic of Palau are directed to prioritize the apprehension, prosecution, and incarceration of Kingpins.

(e) The Attorney General and Special Prosecutor are directed to meet, at least once per annum, to discuss any potential for cooperation or coordination in the apprehension, prosecution, and incarceration of Kingpins.

(f) The Attorney General and Special Prosecutor shall each submit, on September 1 of each year, a report to the President of the Republic and the presiding officers of each house of the Olbiil Era Kelulau on:

(1) whether they believe any Kingpins are present in the Republic of Palau;

(2) whether any additional resources are necessary to successfully apprehend, prosecute, and incarcerate any Kingpins in the Republic of Palau;

(3) whether they believe any additional resources are necessary to prosecute any Kingpins in the Republic of Palau;

(4) whether any government agencies or persons within those agencies are hindering or interfering with the investigation of a Kingpin.

(g) For any criminal conviction pursuant to this chapter, a Court may depart below the minimum if it finds that the convicted person has provided evidence or is willing to provide evidence essential to the criminal prosecution or conviction of a Kingpin. A Court may defer sentencing of any person, if in the Court's judgment such person is likely to provide evidence essential to the criminal prosecution or conviction of a Kingpin.

Section Notes

Sources
RPPL 11-28 § 3, modified.

§ 2121. Public posting of information.

(a) The Division of Transnational Crime within the Bureau of Public Safety shall prepare a poster containing vital information for potential victims of human trafficking or smuggling. The poster shall display all text in Palauan, English, Tagalog, Bengali, and any other languages the Division of Transnational Crime believes are used by potential victims. The poster shall contain, at a minimum:

(1) A hotline number at which such victims may report crimes and obtain assistance.

(2) A definition, in plain language, of human trafficking and human smuggling.

(3) A list of legal rights of victims, written in plain language.

(4) Any other information the Division of Transnational Crime determines potential victims should have access to.

(b) The Division of Transnational Crime shall ensure that the poster prepared pursuant to subsection (a) is posted prominently in each retail store in the Republic at which more than fifty (50) percent of the retail staff are foreign nationals of a nationality that the Division of Transnational Crime has determined is a vulnerable population, and in every barracks or rooming house in the Republic at which more than fifty (50) percent of the occupants are foreign nationals of a nationality that the Division of Transnational Crime has determined is a vulnerable population. The Division of Transnational Crime shall ensure that each such retail store or barracks or rooming house displays such poster and shall provide a method by which each such retail store or barracks or rooming house may promptly report its absence or defacement.

(c) It shall be a petty misdemeanor, punishable by up to two (2) days in jail or a one hundred dollars ($100) fine, to purposefully or knowingly deface or remove a poster posted pursuant to this section without the authorization of the Division of Transnational Crime.

Section Notes

Sources
RPPL 11-28 § 3, modified.

§ 2122. Annual report on human trafficking.

(a) Each year, the Division of Transnational Crime within the Bureau of Public Safety shall prepare an annual report on efforts to eliminate human trafficking and smuggling in the Republic of Palau. The report shall make explicit reference to the prioritized recommendations for Palau contained in the United States' State Department Trafficking in Persons report, and shall contain a summary of standard operating procedures to be used for the proactive identification of smuggling and trafficking victims.

(b) If the Financial Intelligence Unit employs an attorney, such attorney shall assist the Division of Transnational Crime in drafting the report created pursuant to this section. If the Financial Intelligence Unit does not employ an attorney, the Minister of Justice shall assign another attorney employed by the government to assist with drafting the report. The Division of Transnational Crime shall consult with the Ministry of State before publishing the report.

(c) Upon completion, a copy of this report shall be provided to the President of the Republic, to the presiding officer of each house of the Olbiil Era Kelulau, to the Minister of Justice, to the Attorney General, to the Special Prosecutor, and to the Minister of State. The Minister of State shall promptly transmit a copy of the report to the Embassy of the United States in Palau.

Section Notes

Sources
RPPL 11-28 § 3, modified.

§ 2123. Grant assistance to faith based organizations and other NGOs for referral to protection services.

The President of the Republic shall, from time to time, assign individuals experienced or skilled in identifying and applying for grants to assist faith based organizations and other non-governmental organizations in seeking out and applying for grants to support the provision of services for the victims of human smuggling and trafficking. This assistance shall be prioritized to faith based organizations and other non-governmental organizations that already provide services for the victims of human trafficking and smuggling.

Section Notes

Sources
RPPL 11-28 § 3, modified.

§ 2124. Screening of vulnerable populations.

(a) The Minister of Human Resources, Culture, Tourism and Development and the Minister of Justice, with their relevant subordinates, shall meet at least annually, and discuss and develop

synergistic cooperative measures to proactively identify vulnerable populations in the Republic of Palau for human trafficking and smuggling using existing resources.

(b) Such measures shall include, at a minimum:

(1) Procedures for screening some or all fishing vessels present in the Republic of Palau for potential victims of human trafficking, smuggling, or exploitation.

(2) Procedures for screening applicants to receive or renew nonresident work permits for potential victims of human trafficking, smuggling, or exploitation.

(3) Procedures for screening persons suspected to be engaged the illegal sex industry for potential victims of human trafficking, smuggling, or exploitation.

(4) Procedures for regular communication between relevant Bureaus and Divisions within the two ministries for the identification and investigation of potential human smuggling and human trafficking cases.

Section Notes

Sources
RPPL 11-28 § 3, modified.

§ 2125. Inapplicability of other general law.

To the extent that any other general criminal procedure statute, current or subsequent to this chapter, including 17 PNC § 651, contradicts the penalties, procedures or other terms of this chapter, such contradiction shall be read in this chapter's favor, unless it is the explicit intent of the Olbiil Era Kelulau to modify the penalties, procedures, or other terms of this chapter.

Section Notes

Sources
RPPL 11-28 § 3, modified.

§ 2126. Minimum fines.

For any criminal offense under this chapter that specifies a maximum fine, the minimum fine imposed by any Court upon conviction for such offense shall be one third of the maximum.

Section Notes

Sources
RPPL 11-28 § 3, modified.

Chapter 22 — Terrorism

Chapter Notes

Notes
RPPL 7-28 § 2. Former Chapter 42 of Title 17 of the Palau National Code entitled "Terrorism" is renumbered as Chapter 22 of Title 17 of the Palau National Code by RPPL 9-21 § 4(i).

Subchapter I — General Provisions

§ 2201. Short title.

This chapter shall be called the "Counter-Terrorism Act of 2007."

Section Notes

Sources
RPPL 7-28 § 2.
RPPL 9-21 § 3 repeals former § 2201 and RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2200], modified, recodifies section from 17 PNC § 4201 to 17 PNC §2201.

§ 2202. Definitions.

For the purposes of this chapter:

(1) "alleged offender" means a person as to whom there is sufficient evidence to determine prima facie that such person has engaged in terrorism or any person who is listed by the United Nations 1267 Sanctions Committee, listed on the Committee List as referenced in the United Nations Security Resolution 1526, listed on any such list officially adopted or approved by the United Nations Security Counsel, or listed under United States Executive Order 13224;

(2) "biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bio-engineered component of any such microorganism, virus, infectious substance, or biological product, capable of causing:

(A) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(B) deterioration of food, water, equipment, supplies, or material of any kind; or

(C) deleterious alteration of the environment;

(3) "biological weapon" means the following, together or separately, a:

(A) biological agent;

(B) toxin; or

(C) delivery system;

that has been developed, produced, transferred, acquired, retained, or possessed for use as a weapon; provided, however, for purposes of this section, the term "for use as a weapon" does not include the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin or delivery system for prophylactic, protective, or other peaceful purposes;

(4) "chemical weapon" means, together or separately:

(A) a toxic chemical and its precursors, except where intended for a purpose not prohibited by law, as long as the type and quantity is consistent with such purpose;

(B) a munition or device, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (A) of this paragraph, which would be released as a result of the employment of such munition or device; or

(C) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B);

(5) "continental shelf" means the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of two hundred (200) nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance; and as extended by law;

(6) "crime(s) established by this chapter" means:

(A) the terrorist act offense established by Section 2204 under the General Provisions of Subchapter I;

(B) the offenses established under other subchapters of this chapter giving effect to the criminal provisions of the international terrorism conventions, including: financing of terrorism prohibited (Section 2225); weapons of mass destruction offenses (Section 2235); internationally protected persons offenses (Section 2242); hostage-taking offenses (Section 2246); terrorist bombing offenses (Section 2252); prohibition on plastic explosives; offenses (Section 2256); civil aviation offenses (Section 2262); maritime offenses (Section 2272); nuclear material offenses (Section 2281); or

(C) the criminal complicity and inchoate offenses established by subsection (c) of Section 2205;

(7) "delivery system" means, with respect to biological weapons:

(A) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

(B) any vector.

(8) "engage(s) in" with respect to terrorist acts, terrorism offenses, and terrorism, means in an individual capacity or as a member of an organization:

(A) to perpetrate, commit, or carry out or to incite to commit or carry out;

(B) to threaten, attempt, solicit, or conspire to carry out or commit;

(C) to prepare or plan;

(D) to gather information on potential targets for;

(E) to solicit, collect or provide property or other things of value, with the knowledge or intention that the property or other things of value will be used:

(i) for terrorism; or

(ii) by a terrorist organization;

(F) to solicit, recruit, or train any person:

(i) to engage in terrorism;

(ii) to engage in conduct otherwise described in this section or prohibited by this chapter; or

(iii) for membership in a terrorist organization; or

(G) to commit or carry out an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, property, transfer of property or other material benefit, false documentation or identification, weapons, including, without limitation, chemical, biological, or radiological weapons, explosives, or training:

(i) for terrorism;

(ii) to any individual whom the actor knows, or reasonably should know, engages in terrorism; or

(iii) for a terrorist organization;

(9) "fixed platform" means an artificial island, installation, or structure permanently attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes;

(10) "foreign government" means any foreign state or nation, or any agency, instrumentality or political subdivision of any such government or nation, whether or not it is engaging in legal activities or is operating legally or in a lawful manner;

(11) "foreign national" means a natural person who is neither a citizen nor a national of Palau;

(12) "foreign state" means:

(A) any country other than Palau; and

(B) every constituent part of such country, including a territory, dependency or protectorate which administers its own laws;

(13) "freeze" means to prohibit the transfer, conversion, disposition, or movement of funds or other assets on the basis of, and for the duration of the validity of, an action initiated by a competent authority or a court under a freezing mechanism;

(14) "in flight" means, with respect to aircraft, at any time from the moment when all the external doors are closed following embarkation until the moment when any such door is opened for disembarkation; provided, however, in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;

(15) "infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications;

(16) "in service" means, with respect to aircraft, from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; and, the period of service shall, in any event, extend for the entire period during which the aircraft is in flight;

(17) "internationally protected person" means and includes:

(A) a head of state, including any member of a collegial body performing the functions of a head of state under the constitution of the state concerned, a head of government or a minister of foreign affairs, whenever any such person is in a foreign state, as well as members of such person's family who accompany him or her;

(B) any representative or official of the Republic of Palau or of a foreign state, or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against such person, the person's official premises, private accommodation or means of transport is committed, is entitled pursuant to international law to special protection from any attack on his or her person, freedom or dignity, as well as members of such person's family forming part of the person's household;

(18) "international terrorism conventions" means and includes:

(A) the "Convention on Offences and Certain Other Acts Committed on Board Aircraft", convened in Tokyo on September 14, 1963 (deposited with the International Civil Aviation Organization);

(B) the "Convention for the Suppression of Unlawful Seizure of Aircraft", convened at The Hague on December 16, 1970 (deposited with the International Civil Aviation Organization);

(C) the "Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation", convened in Montreal on September 23, 1971 (deposited with the International Civil Aviation Organization);

(D) the "Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents", adopted by the General Assembly of the United Nations on December 14, 1973 (deposited with the Secretary-General of the United Nations);

(E) the "International Convention against the Taking of Hostages", adopted by the General Assembly of the United Nations on December 17, 1979 (deposited with the Secretary-General of the United Nations);

(F) the "Convention on the Physical Protection of Nuclear Material", opened for signature in New York and Vienna on March 3, 1980 (deposited with the Director General of the International Atomic Energy Agency);

(G) the "Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, convened in Montreal on February 24, 1988, and supplementary to the 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation" (deposited with the International Civil Aviation Organization);

(H) the "Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation", convened in Rome on March 10, 1988 (deposited with the International Maritime Organization);

(I) the "Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf", convened in Rome on March 10, 1988 (deposited with the International Maritime Organization);

(J) the "Convention on the Marking of Plastic Explosives for the Purpose of Detection", convened in Montreal on March 1, 1991 (deposited with the International Civil Aviation Organization);

(K) the "International Convention for the Suppression of Terrorist Bombings", adopted by the General Assembly of the United Nations on December 15, 1997 (deposited with the Secretary-General of the United Nations);

(L) the "International Convention for the Suppression of the Financing of Terrorism", adopted by the General Assembly of the United Nations on December 9, 1999 (deposited with the Secretary-General of the United Nations); and

(M) any conventions regarding terrorism to which Palau becomes a state party.

(19) "key component of a binary or multi-component chemical system" means, with respect to precursors and chemical weapons, the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multi-component system;

(20) "Minister of Justice" means the Minister of Justice of the Republic of Palau, and includes any person to whom the Minister of Justice delegates authority to carry out the duties and responsibilities of the Minister of Justice established by this chapter;

(21) "nuclear material" has the same meaning as defined in the Convention on the Physical Protection of Nuclear Material;

(22) "Palau" means the Republic of Palau, and every part of the territory of Palau, including the marine space and the territorial sea and the airspace above the territory of Palau, and also includes all governments of Palau;

(23) "person" means and includes both natural and legal persons and any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, whether or not it is engaging in legal activities or is operating legally and in a lawful manner;

(24) "place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public;

(25) "plastic explosive" means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form has a vapor pressure less than 10-4 Pa at a temperature of 25º Celsius, is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature;

(26) "precursor" means, with respect to chemical weapons, any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multi-component chemical system;

(27) "proceeds" means any property derived from or obtained, directly or indirectly, through or from terrorism;

(28) "property" means real and personal property of every kind whatsoever;

(29) "public transportation system" means all facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

(30) "purpose not prohibited by law" with respect to chemical weapons, means:

(A) industrial, agricultural, research, medical, pharmaceutical, or other peaceful purposes;

(B) protective purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

(C) military purposes of Palau that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm; and

(D) law enforcement including domestic riot control purposes;

(31) "serious bodily injury" means physical pain, illness or any impairment of physical condition that creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ;

(32) "serious offense" means any act committed in Palau that is punishable by a period of imprisonment of more than one year and any act committed abroad, which constitutes a felony if it had been committed in Palau;

(33) "ship" means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft;

(34) "state or government facility" means any permanent or temporary facility or conveyance that is used or occupied by representatives of a country, members of government, the legislature, or the judiciary, or by officials or employees of a country or any other public authority or entity, or by employees or officials of an intergovernmental organization in connection with their official duties;

(35) "substantial property damage" means damage in an amount exceeding ten thousand dollars ($10,000);

(36) "terrorism" means terrorism offenses and terrorist acts;

(37) "terrorism offense" means:

(A) any crime established by this chapter;

(B) any crime established by the Palau National Code and declared to be a terrorism offense by the Olbiil Era Kelulau;

(C) any crime established by an international terrorism convention;

(D) any crime recognized under international humanitarian law as a terrorism offense; and

(E) any crime established under the law of a foreign state, where such crime, if committed in Palau, would constitute a terrorism offense under the Palau National Code;

(38) "terrorist" means a person who engages in terrorism;

(39) "terrorist act" means any act that is intended, or by its nature or context can be reasonably regarded as intended, to advance political, ideological, or religious causes, by intimidating the public or any portion of the public, or by compelling or attempting to compel a government or an international or regional organization to do or refrain from doing any act, and:

(A) involves the seizing or detaining, and threatening to kill, injure, harm, or continue to detain, another person;

(B) endangers the life of any person;

(C) creates a risk to the health or the safety of the public, or to any portion of the public;

(D) endangers the national security or national defense of any country;

(E) involves substantial damage to property;

(F) involves the highjacking, seizure or sabotage of any conveyance (including an aircraft, vessel, ship, or vehicle), or of any fixed platform attached to the continental shelf;

(G) involves any act that is designed to disrupt or destroy an electronic system, including, without limitation:

(i) an information system;

(ii) a telecommunications system;

(iii) a financial system;

(iv) a system used for the delivery of essential government services;

(v) a system used for, or by, an essential public utility; or

(vi) a system used for, or by, a transport system; or

(H) involves any act that is designed to disrupt the provision of essential emergency services such as the police, civil defense, or medical services;

(40) "terrorist organization" means a group composed of two or more persons, whether organized or not, that engages in terrorism;

(41) "toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation, or permanent harm to humans or animals, and includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions, or elsewhere;

(42) "toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

(A) any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

(B) any poisonous isomer or biological product, homolog, or derivative of such a substance;

(43) "vector" means, with respect to delivery systems and biological weapons, a living organism, or molecule, including a recombinant molecule, or biological product that

may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host;

(44) "weapon of mass destruction" means, any:

(A) chemical weapon or any other weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or its precursors;

(B) biological weapon, or any other weapon involving a disease organism; or

(C) nuclear material, weapon, or device, and any other weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

Section Notes

Sources
RPPL 7-28 § 3, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2201], modified, recodifies section from 17 PNC § 4202 to 17 PNC § 2202.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 2203. Application, jurisdiction, and enforcement.

Ministry of Justice shall have primary enforcement authority for this chapter.

(1) Palau shall have and take jurisdiction over and prosecute any crime established by this chapter when the offense:

(A) is committed in Palau;

(B) is committed by a Palau citizen or national;

(C) is committed on board an aircraft or ship:

(i) registered under Palau national law at the time the offense was committed; or

(ii) operating under or flying the Palau flag;

(I) which lands in the territory of the Republic of Palau with the alleged offender still on board; or

(II) leased or chartered without crew to a lessee who has its principal place of business in Palau, or who is a habitual resident of Palau;

(D) is committed against or on board a fixed platform while it is located on Palau's continental shelf;

(E) was directed towards or resulted in the carrying out of a crime against a Palau citizen or national, or during its commission a Palau citizen or national is seized, threatened, injured or killed;

(F) was directed towards or resulted in the carrying out of a crime against the government of Palau or a Palau government facility abroad, including diplomatic or consular premises of Palau;

(G) was directed towards or resulted in a crime committed in an attempt to compel Palau to do or abstain from doing any act;

(H) was committed by a stateless person whose habitual residence is in Palau; or

(I) is committed in a foreign state by an alleged offender who is present in Palau, and the alleged offender is not extradited to a foreign state that has established jurisdiction over the offense or the alleged offender.

(2) Application of any provisions of this chapter, relating to or implementing the provisions of any international terrorism convention or protocol, shall conform to and meet the requirements of the particular convention or protocol, and shall be subject to the exclusions and jurisdictional requirements contained therein.

Section Notes

Sources
RPPL 7-28 § 4, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2202] recodifies section from 17 PNC § 4203 to 17 PNC § 2203.

Notes
The Code Commission has made technical changes to put the terms in alphabetical order and to the designations and cross-references within this section to conform to the Style of the Code.

§ 2204. Terrorist acts.

It shall be a crime, punishable by the penalties established by Section 2205, for any person to knowingly, by any means, directly or indirectly, engage in a terrorist act.

Section Notes

Sources
RPPL 7-28 §5, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2203], modified, recodifies section from 17 PNC § 4204 to 17 PNC §2204.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 2205. Criminal penalties; criminal complicity and inchoate offenses; no time limitation on prosecution; detention of suspected terrorists.

(a) Crimes established by this chapter resulting in the death of any natural person, are punishable by a minimum term of imprisonment of ten (10) years and a maximum term of life, and unless otherwise expressly provided, a maximum fine of one million dollars ($1,000,000). All other crimes established by this chapter, unless otherwise expressly provided, are punishable by a minimum term of imprisonment of twenty (20) years and a maximum term of life, and unless otherwise expressly provided, a maximum fine of one million ($1,000,000), and in every case. The court shall not place on probation any person convicted of such a crime, nor shall the term of imprisonment imposed run concurrently with any other term of imprisonment.

(b) In lieu of the amount of the fine otherwise authorized by this chapter, and in addition to any term of imprisonment, a defendant who derived profits or other proceeds from a crime established by this chapter may be fined not more than twice the gross profits or other proceeds, where the profits or proceeds from the offense exceed the maximum assessable fine.

(c) A person also commits a crime, punishable by the same penalties established by subsection (a), if that person knowingly:

(1) attempts or conspires to commit;

(2) participates as an accomplice in; or

(3) organizes or directs others to commit;

any crime established by this chapter.

(d) Any person who threatens to commit any crime established by this chapter shall, upon conviction, be subject to a minimum term of imprisonment of five (5) years and a maximum term of life, or a fine of not more than two hundred fifty thousand dollars ($250,000), or both.

(e) Notwithstanding any other provision of law, there shall be no limitation of time on when a prosecution for a crime established by this chapter can be brought. In situations of urgency, where there are reasonable grounds to believe that detention of any person is necessary to prevent terrorism from occurring, or to prevent any person from interfering with an investigation relating to suspected terrorism, any law enforcement officer, immigration officer, or customs official in Palau shall be authorized to detain such person for a period of forty-eight (48) hours for purposes of investigation; provided, however, such period of detention may be extended by court order for an additional seven (7) days, without the filing of criminal charges against such person.

(f) The court, in imposing sentence on any person convicted of a terrorism offense, shall order, in addition to any other sentence imposed, that the person forfeit to Palau all property described in Section 2206.

Section Notes

Sources
RPPL 7-28 § 6, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2204], modified, recodifies section from 17 PNC § 4205 to 17 PNC §2205.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 2206. Criminal forfeiture.

(a)

(1) Any person convicted of a terrorism offense shall be required to forfeit to Palau, irrespective of any other provision of law:

(A) any property used or intended to be used by a person involved in the offense;

(B) any property constituting or derived from proceeds the person obtained, directly or indirectly, from the offense; and

(C) any property used in any manner or part, to commit, or to facilitate the commission of, such offense.

(2) Such a forfeiture shall be ordered by the Supreme Court when any such person is convicted upon a finding supported by a preponderance of the evidence that any particular property is within one or more of the categories in Section 2206(a)(1)(A), (B), or (C).

(b) When the specific property cannot be identified, found, or recovered, the court shall confiscate property of equal value from the owner of the property in question.

(c) Any instrument executed free of charge or for a consideration inter vivos or mortis causa, the purpose of which is to safeguard property from confiscation measures as provided in this section, is void. In the case of the nullification of a contract involving payment, the buyer is reimbursed only for the amount actually paid.

(d) Weapons of mass destruction, plastic explosives, and nuclear material shall be seized, confiscated, and forfeited to Palau; and the Minister of Justice shall provide for their destruction or other appropriate disposition.

(e) For the purposes of forfeiture proceedings under this section, a temporary restraining order and seizure warrant may be entered upon application of the Attorney General without notice or opportunity for a hearing when an information or complaint has not yet been filed with respect to the property, where there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and exigent circumstances exist that place the life or health of any person in danger.

(f) The provisions of this section shall be implemented without prejudice to the property rights of third parties acting in good faith.

(g) The owner or possessor of any property seized under this section shall be liable to Palau for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized property.

Section Notes

Sources
RPPL 7-28 § 7, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2205], modified, recodifies section from 17 PNC § 4206 to 17 PNC § 2206.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the designations and cross-references within subsection (a) to conform to the Style of the Code.

§ 2207. Liability of legal persons and foreign governments.

(a) Legal persons and any foreign government shall be liable in the same manner and to the same extent as any natural person for any terrorism offense.

(b) The maximum assessable fine for legal persons and foreign governments shall be increased by ten times the amount assessable in the case of a natural person.

(c) Where, in proceedings for a violation of this chapter, it is necessary to establish the state of mind of a legal person, it is sufficient to show that a director, officer, or agent who engaged in the conduct within the scope of his or her actual apparent authority, had that state of mind. Where, in proceedings for a violation of this chapter, it is necessary to establish the state of mind of a foreign government, it is sufficient to show that its agent engaged in the conduct within the scope of his or her apparent authority, and had that state of mind.

(d) Any conduct engaged in by:

(1) a director, officer, agent of a legal person, or an agent of a foreign government, within the scope of his or her actual or apparent authority; or

(2) any other person at the direction, with the consent of or by agreement, whether express or implied, of a director, officer, agent of the legal person, or agent of a foreign government, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, officer, or agent;

shall be deemed, for the purposes of this chapter, to have also been engaged in by the legal person or the foreign government.

(e) Legal persons who are found to have committed or aided any offense under this chapter may additionally be:

(1) banned for a minimum period of five (5) years from directly or indirectly carrying on certain business activities;

(2) ordered to permanently close their premises that were used for the commission of the offense;

(3) dissolved if they were created for the purpose of committing the offense; and

(4) required to publicize the judgment in the press or any other audiovisual media.

Section Notes

Sources
RPPL 7-28 § 8, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2206], modified, recodifies section from at 17 PNC § 4207 to 17 PNC § 2207.

§ 2208. Civil penalties; reimbursement.

(a) The Attorney General may bring a civil action in Palau against any person who commits a crime established by this chapter, and upon proof by a preponderance of the evidence that such person committed the offense, the person shall be subject to pay a civil penalty in an amount not to exceed twenty five million dollars ($25,000,000) for each such offense.

(b) The imposition of a civil penalty under subsection (a) does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to Palau or any other person.

(c) The court shall order any person convicted of a crime established by this chapter to reimburse Palau for any expenses incurred by Palau incident to investigation and prosecution for the offense, including, without limitation, the seizure, storage, handling, transportation, destruction, or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person.

(d) A person ordered to reimburse Palau pursuant to subsection (c) shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under subsection (c) to reimburse Palau for the same expenses.

Section Notes

Sources
RPPL 7-28 § 9, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2207], modified, recodifies section from 17 PNC § 4208 to 17 PNC § 2208.

§ 2209. Civil forfeiture.

(a) The Attorney General may apply to the court for an order forfeiting property to Palau, and the court shall order forfeiture thereof, upon proof by a preponderance of the evidence, that the property:

(1) is owned, possessed, used or intended to be used by a person in the commission of a terrorist act;

(2) constitutes, is derived from, or is money proceeds which a person obtained, directly or indirectly, as the result of a terrorist act; or

(3) was used or intended to be used in any manner or part to commit, or to facilitate the commission of a terrorist act.

(b) Notice of civil forfeiture and rights of third parties.

(1) The Attorney General shall give no less than fourteen (14) days written notice of the application for civil forfeiture, to any person known to own, control, or have an interest in the subject property.

(2) Notice of the application shall be given to such other persons who may have an interest in the property, as ordered by the court.

(3) Any persons claiming an interest in the subject property shall be given an opportunity to be heard in the proceedings, and if the person demonstrates by a preponderance of the evidence that such a claimant did not participate or attempt to participate in any terrorist act, has a bona fide interest in the property, and is not a member of a terrorist group, the court shall order that such interest shall not be affected by the civil forfeiture order, and the court shall declare the nature and extent of any such interest.

(4) Notwithstanding the above, if a person obtains an interest in property after it has been used in the commission or attempted commission of a terrorist act, no order shall be made under paragraph (3) above with respect to that interest unless the person is a bona fide purchaser for value, without reason to suspect that the property was used in the commission or attempted commission of a terrorist act.

(5) After a civil forfeiture order is entered, a person claiming an interest in the forfeited property may, within six (6) months of the date of the entry of the order, request relief from the operation of the order under paragraph (3) above, unless such person had knowledge of the application for the civil forfeiture order before the order was made or appeared at the hearing on the application.

(c) Voidable transfers. The court may set aside any conveyance or transfer of any property which was seized, forfeited, or is subject to seizure or forfeiture under Sections 2206, 2208 or 2209 of this chapter, unless the conveyance or transfer was made for valuable consideration to a person acting in good faith and without notice.

Section Notes

Sources
RPPL 7-28 § 10, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2208], modified, recodifies section from 17 PNC § 4209 to 17 PNC § 2209.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 2210. Private causes of action for terrorism.

(a) Any Palau citizen or national injured in his or her person, property, or business by reason of terrorism, or his or her estate, survivors, or heirs, may sue therefore in the Palau court and shall recover threefold the damages he or she has sustained, and the cost of the suit, including reasonable attorney fees.

(b) A final judgment or decree rendered in favor of Palau in any criminal proceeding relating to a terrorism offense shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(c) A final judgment or decree rendered in favor of any foreign state in any criminal proceeding relating to a terrorism offense shall, to the extent that such judgment or decree may be accorded full faith and credit under the laws of Palau, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(d) No action shall be maintained under subsection (a) for injury or loss by reason of an act of war.

(e) No action shall be maintained under subsection (a) against Palau, an agency of Palau, or an officer or employee of Palau, or any agency thereof acting within his or her official capacity or under color of legal authority.

Section Notes

Sources
RPPL 7-28 § 11.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2209], modified, recodifies section from 17 PNC § 4210 to 17 PNC § 2210.

§ 2211. Injunctions.

The Republic of Palau may obtain, in a civil action, an injunction against the development, production, stockpiling, transferring, acquisition, retention, or possession of any:

(1) biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes; or

(2) toxic chemical or precursor, of a type or in a quantity that under the circumstances has no apparent justification for a purpose not prohibited by law or the "United Nations Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on their Destruction".

Section Notes

Sources
RPPL 7-28 § 12, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2210], modified, recodifies section from 17 PNC § 4211 to 17 PNC § 2211.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 2212. Duty to take measures.

The Minister of Justice shall take appropriate measures to implement all provisions of this chapter, including, but not limited to:

(1) establish Palau's jurisdiction over and prosecute every crime established by this chapter;

(2) investigate terrorism, and upon receiving information that an alleged offender may be present in Palau, shall take the person into custody and take other appropriate measures to ensure the alleged offender's presence for the purpose of prosecution;

(3) take into custody and extradite any alleged offender who is present in Palau, and who is subject to arrest and detention for purposes of extradition pursuant to the Extradition and Transfer Act of 2001, Chapter 10.1 of Title 18 of the Palau National Code;

(4) provide early warning and furnish any relevant information in the possession of Palau to those countries which the Minister of Justice believes would have jurisdiction, where there is reason to believe that a terrorism offense has been or will be committed;

(5) identify, detect, freeze, seize, and obtain forfeiture of any property used or allocated for the purpose of committing any terrorism offense as well as the proceeds derived from such offenses;

(6) serve as the national focal point with respect to all matters relating to the international terrorism conventions, and to implement, conform to, and abide by the express requirements of any international terrorism convention to which Palau is a party, in carrying out any functions under this chapter, and to ensure that any person, regarding whom the measures referred to in this section are being taken, shall be afforded the protections to which such person is expressly entitled under the relevant international terrorism convention;

(7) prevent the cross border movement of terrorists, and to track the movement of such persons, and of persons who are members of terrorist organizations;

(8) prevent the admission of terrorists into Palau, except as may be necessary to secure that person's presence for the purpose of extradition or prosecution for a terrorism offense;

(9) prevent attacks on the person, freedom, or dignity of internationally protected persons;

(10) prevent the movement into or out of Palau, of unauthorized plastic explosives (especially, unmarked plastic explosives), and to prevent their manufacture;

(11) provide timely notification of the fact that a person is in custody and of the circumstances which warrant that person's detention, directly, or through the depositary of the relevant international terrorism convention, when Palau has taken a person into custody or has taken other measures with respect to any person pursuant to this section to:

(A) the appropriate authorities of the country of which the detained person is a citizen or national, if the person is not a citizen or national of Palau;

(B) the state party to the relevant international terrorism convention that have established jurisdiction over the person or the offense in question in accordance with the convention, and to the depositary of the convention;

(C) the country of registration of the aircraft, in cases involving aircraft;

(D) the country whose flag the ship was flying, in cases involving ships; and

(E) any other foreign state or interested person, if the Minister of Justice considers it advisable; and

(12) order the freezing of property, by administrative decision, of individuals and organizations designated by the United Nations Security Council acting under Chapter VII of the United Nations Charter. Any individual or organization whose property has been frozen pursuant to this section and asserts that they were included on the list as the result of an error may seek to have their name removed from the list by submitting a request to this effect within thirty (30) days of the publication of the list to the agency who ordered the freezing, indicating all factors that could demonstrate the error. The agency's decision with respect to this request may be appealed to the Supreme Court of the Republic of Palau, but shall in no event be stayed or vacated pending a final decision by the court.

Section Notes

Sources
RPPL 7-28 § 13, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2211], modified, recodifies section from 17 PNC § 4212 to 17 PNC § 2212.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 2213. Extradition.

(a) Terrorism offenses are hereby declared to be extraditable offenses.

(b) Extradition for terrorism offenses shall be carried-out pursuant to and in accordance with the Extradition and Transfer Act of 2001, Chapter 10.1 of Title 18 of the Palau National Code.

(c) For the purpose of extradition, a terrorism offense shall be treated, as if it had been committed not only in the place in which it occurred but also in the territory of any state party to an international terrorism convention that is required to establish jurisdiction over the offense in accordance with that convention.

Section Notes

Sources
RPPL 7-28 § 14.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2212], modified, recodifies section from 17 PNC § 4213 to 17 PNC § 2213.

§ 2214. Mutual legal assistance.

(a) The Attorney General is authorized to make requests on behalf of Palau to the appropriate authority of a foreign state, or grant requests of a foreign state, for legal assistance in any investigation or proceeding relating to terrorism, or a terrorist organization.

(b) Mutual legal assistance provided under this chapter shall be carried-out pursuant to and in accordance with the Mutual Assistance in Criminal Matters Act of 2001, Chapter 13 of Title 18 of the Palau National Code, which is hereby amended to expressly allow for the type of assistance authorized by subsection (a), the Money Laundering and Proceeds of Crime Act of 2001 or any memorandum of understanding entered into between the competent authorities on behalf of Palau and the foreign state.

Section Notes

Sources
RPPL 7-28 § 15, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2213], modified, recodifies section from 17 PNC § 4214 to 17 PNC § 2214.

§ 2215. Intelligence sharing.

(a) The Minister of Justice, the Attorney General, the Financial Intelligence Unit, and other law enforcement authorities and officers of Palau designated by the Minister of Justice shall be freely authorized and encouraged to share and disclose intelligence information relating to terrorism, terrorist organizations, transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and to provide early warning of such matters to the competent law enforcement authorities of:

(1) any foreign state that is a state party to an international terrorism convention in respect of which Palau is also a party;

(2) any foreign state that is a member of the Pacific Islands Forum;

(3) the United States, in accordance with the duties and responsibilities of Palau under the Compact of Free Association with the United States; and

(4) any other foreign state that is a member of the United Nations.

(b) Notwithstanding the above, any restrictions on the use or disclosure of the information by the granting agency shall be binding on the receiving agency. Where a request from a foreign state requires that its existence and substance be kept confidential, such requirement shall be observed except to the extent necessary to give effect to the request. If that is not possible, the requesting authorities shall be promptly informed to that effect.

Section Notes

Sources
RPPL 7-28 § 16.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2214], modified, recodifies section from at 17 PNC § 4215 to 17 PNC § 2215.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code. The Code Commission has designated the undesignated text following paragraph (4) as subsection (b).

§ 2216. No asylum.

(a) Palau shall not grant refugee status or provide asylum or safe haven to any terrorist or to any alleged offender.

(b) Any alleged offender who is denied asylum or safe haven in accordance with subsection (a) may petition the court for a hearing, to be given priority over other matters. Such hearing shall be conducted for the purpose of determining, by a preponderance of the evidence, whether such person has engaged in terrorism. During the pendency of such proceedings, the alleged offender may be detained under such conditions as the court deems just and proper.

Section Notes

Sources
RPPL 7-28 § 17.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2215], modified, recodifies section from 17 PNC § 4216 to 17 PNC § 2216.

§ 2217. Prevention.

(a) Palau shall cooperate with the competent authorities of the United States and other members of the United Nations and the Pacific Islands Forum in the prevention of terrorism by taking all practicable measures to prevent and counter preparations in the Republic of Palau for the perpetration of terrorism within or outside the territory of Palau, including measures to prohibit illegal activities of persons and organizations that knowingly encourage, instigate, organize, finance, or engage in terrorism.

(b) Palau shall further cooperate in the prevention of terrorism by exchanging accurate and verified information to provide early warning of possible terrorism, in particular by:

(1) establishing and maintaining channels of communication to facilitate the secure and rapid exchange of information concerning all aspects of terrorism and terrorist organizations;

(2) exchanging accurate and verified entry and exit data and information for ports of entry into Palau, including airports and seaports, and coordinating administrative and other measures taken, as appropriate, to prevent the cross-border movement of terrorists, and to track their movement and the movement of members of terrorist organizations; and

(3) conducting inquiries, with respect to terrorists and members of terrorist organizations, concerning:

(A) the identity, whereabouts, and activities of persons of whom reasonable suspicion exists that they engage in terrorism or are members of a terrorist organization;

(B) the movement of property linked to persons who engage in terrorism or who are members of a terrorist organization; and

(C) participation in research and development, and exchange of information regarding methods of detection of cross border movement of terrorists and members of terrorist organizations, including detection of forged or falsified travel documents, trafficking of arms, explosives, illicit drugs, contraband, or sensitive materials, and cross-border movement of nuclear, chemical,

biological, and other potentially deadly materials, or use of communication technologies by terrorist groups.

Section Notes

Sources
RPPL 7-28 § 18, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2216], modified, recodifies section from 17 PNC § 4217 to 17 PNC § 2217.

Notes
Subparagraphs (A)–(C) under paragraph (3) read (i)–(iii) in the original statute and were changed accordingly to conform with the Code format.

§ 2218. Transfer of persons.

(a) Transfer of any person who is being detained or is serving a sentence in the territory of Palau or a foreign state, whose presence is requested in Palau or in a foreign state for purposes of identification, testimony, or otherwise providing assistance in obtaining evidence for the investigation or prosecution of a terrorism offense, shall be authorized and allowed where the countries agree on the conditions.

(b) Transfer of such persons shall be carried out pursuant to and in accordance with requirements of the Extradition and Transfer Act of 2001, Chapter 10.1 of Title 18 of the Palau National Code for convicted persons, whether or not the person to be transferred has already been convicted of an offense.

Section Notes

Sources
RPPL 7-28 § 19.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2217], modified, recodifies section from 17 PNC § 4218 to 17 PNC § 2218.

§ 2219. Other rights, obligations and responsibilities not affected; no liability for actions taken in good faith.

(a) Nothing in this chapter shall affect other rights, obligations, and responsibilities of Palau and individuals under international law, in particular the purposes of the Charter of the United Nations, the Compact of Free Association with the United States, international humanitarian law and other relevant conventions.

(b) Nothing in this chapter entitles Palau or any other country to undertake in the territory of the other the exercise of jurisdiction or performance of functions that are exclusively reserved for the authorities of that country by its domestic law.

(c) Persons shall be immune from suit and civil liability for actions taken in good faith pursuant to and in accordance with this chapter.

Section Notes

Sources
RPPL 7-28 § 20, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2218], modified, recodifies section from 17 PNC § 4219 to 17 PNC § 2219.

§ 2220. Resolution of disputes.

Any dispute between Palau and any state party to an international terrorism convention concerning the interpretation or application of this chapter relating to application of the convention shall be resolved in accordance with the provisions of the relevant international terrorism convention.

Section Notes

Sources
RPPL 7-28 § 21, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2219], modified, recodifies section from 17 PNC § 4220 to 17 PNC § 2220.

§ 2221. Implementing regulations.

Minister of Justice may prescribe rules and regulations reasonably necessary to implement the provisions of this chapter.

Section Notes

Sources
RPPL 7-28 § 22, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2220], modified, recodifies section from 17 PNC § 4221 to 17 PNC § 2221.

Subchapter II — Suppression of Financing of Terrorism

§ 2225. Financing of terrorism prohibited.

(a) Any person who by any means, directly or indirectly, or as an accomplice, solicits, provides or collects property, or provides financial or other services, or organizes or directs others to solicit, provide or collect property or provide financial or other services, with the intention that they should be used or in the knowledge that they are to be used, in full or in part:

(1) for terrorism;

(2) for the benefit of persons who engage in terrorism, or for the benefit of entities owned or controlled, directly or indirectly, by persons who engage in terrorism; or

(3) for the benefit of persons or entities acting on behalf of or at the direction of any person referred to in subsection (a)(2);

commits a crime, the financing of terrorism, punishable by the penalties established by Section 2205 of this chapter.

(b) For an act to constitute an offense under this section it shall not be necessary that the property was actually used to commit or carry out a terrorism offense, or terrorist act.

(c) No consideration of a political, philosophical, ideological, racial, ethnic, religious, or other similar nature may be taken into account in order to justify the commission of any of the aforementioned offenses.

(d) Legal persons and any foreign government shall be liable in the same manner and to the same extent as any natural person for the offense of financing of terrorism.

(e) The maximum assessable fine for legal persons and foreign governments shall be increased by ten times the amount assessable in the case of a natural person.

(f) Where, in proceedings for a violation of this section, it is necessary to establish the state of mind of a legal person, it is sufficient to show that a director, officer, or agent who engaged in the conduct within the scope of his or her actual apparent authority, had that state of mind. Where, in proceedings for a violation of this chapter, it is necessary to establish the state of mind of a foreign government, it is sufficient to show that its agent engaged in the conduct within the scope of his or her apparent authority, and had that state of mind.

(g) Any conduct engaged in by:

(1) a director, officer, or agent of a legal person, or an agent of a foreign government, within the scope of his or her actual or apparent authority; or

(2) any other person at the direction or with the consent or agreement (whether express or implied) of a director, officer or agent of the legal person, or agent of a foreign government, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, officer or agent;

shall be deemed, for the purposes of this chapter, to have also been engaged in by the legal person or the foreign government.

(h) Legal persons who are found to have committed or aided an offense under this section may additionally be:

(1) banned for a minimum period of five (5) years from directly or indirectly carrying on certain business activities within the Republic of Palau;

(2) ordered to close permanently their premises that were used for the commission of the offense;

(3) dissolved if they were created for the purpose of committing the offense; and

(4) required to publicize the judgment in the press or any other audiovisual media.

Section Notes

Sources
RPPL 7-28 § 24, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2221], modified, recodifies section from 17 PNC § 4225 to 17 PNC § 2225.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 2226. Prevention of terrorism financing through nonprofit entities.

(a) No corporation, business, enterprise, partnership, association, or entity, shall be granted charitable or non-profit status in Palau where there are reasonable grounds to believe that any property solicited, collected, held, used, or owned by such corporation, business, enterprise, partnership, association, or entity, may be diverted to a terrorist or a terrorist organization.

(b) Any donation made to a non-profit corporation, association, or organization in an amount equal to or greater than five thousand dollars ($5,000), or any greater amount to be established pursuant to regulations issued by the Financial Intelligence Unit, shall be recorded in a record maintained for the purpose by the non-profit association or organization, containing the full details of the donor, the date, the nature, and the amount of the donation. The record shall be kept for a period of three (3) years and shall be produced at the request of the Financial Intelligence Unit. When the donor of an amount in excess of that amount wishes to remain anonymous, the record may omit the identification, but the association or organization is required to disclose his or her identity at the request of the Financial Intelligence Unit.

(c) Any cash donation in an amount equal to or greater than ten thousand dollars ($10,000) or any sum established by regulation as promulgated by the Financial Intelligence Unit shall be reported to the Attorney General and the Financial Intelligence Unit pursuant to the procedures as set forth by regulation. A donation of any amount, whether cash or otherwise, shall be reported to the Attorney General and the Financial Intelligence Unit where the donation is suspected of being related to a terrorist operation, the financing of terrorism, or the proceeds of a crime as that term is defined in the Money Laundering and Proceeds of Crime Act.

(d) Any violation of the provisions of this section is punishable by one or more of the following penalties:

(1) a fine of no more than ten thousand dollars ($10,000);

(2) a temporary ban on the activities of the association or organization of no more than two (2) years; or

(3) the dissolution of the association or organization.

Section Notes

Sources
RPPL 7-28 § 25, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2222], modified, recodifies section from 17 PNC § 4226 to 17 PNC § 2226.

§ 2227. Seizure and detention of terrorist related property.

(a) Any Palau law enforcement officer or customs official may seize and, in accordance with this section, detain, any property, that the officer or official has probable cause to believe was derived from or intended for terrorism, financing of terrorism or terrorist organizations, including, without limitation, property being imported into or exported from Palau.

(b) Property of, or intended for, terrorist organizations shall be frozen, seized, and in accordance with this section, detained, where the organization has been designated as a terrorist organization by the United Nations Security Council, or by the Minister of Justice pursuant to regulations promulgated pursuant to this chapter, or where there is probable cause to believe that the entity involved is a terrorist organization.

(c) Property detained under subsection (a) or (b) shall not be detained for more than forty-eight (48) hours after seizure, unless a judge of the court grants an order of continued detention for a period not exceeding three (3) months from the date of seizure, upon being satisfied that:

(1) there is probable cause to believe that the property was derived from terrorism, or is intended by any person for use in the commission of a terrorism offense or for a terrorist act; and

(2) the continued detention is justified while:

(A) its origin or derivation is further investigated; or

(B) consideration is given to the institution in Palau or elsewhere of criminal proceedings against any person for an offense with which the property is connected;

provided, however, upon request by the person from whom the property was seized and detained, the court shall grant a hearing to determine if the order of continued detention is warranted.

(d) A judge of the court may subsequently order, after hearing, with notice to all parties concerned, the continued detention of the property if satisfied of the matters mentioned in subsection (c), but the total period of detention shall not exceed two (2) years from the date of the order.

(e) Subject to subsection (f), property detained under this section may be released in whole or in part to the person on whose behalf the property was imported or exported:

(1) by order of a judge of the court that continued detention is no longer justified, upon application by or on behalf of that person and after considering any views of the Attorney General to the contrary; or

(2) by an authorized officer or customs official, if satisfied that the continued detention is no longer justified.

(f) No property detained under this section shall be released where an application is made under this chapter or other Palau national law for the purpose of:

(1) confiscation and forfeiture of the whole or any part of the property;

(2) property's restraint pending determination of liability to confiscation and forfeiture; or

(3) proceedings are instituted in Palau, or elsewhere, against any person for a terrorism offense with which the property is connected unless and until the proceedings relating to the relevant application or the proceedings for the offense, as the case may be, have been concluded.

(g) Property seized pursuant to this section shall be subject to confiscation and forfeiture pursuant to Sections 2206 and 2209 of this chapter.

Section Notes

Sources
RPPL 7-28 § 26, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2223], modified, recodifies section from 17 PNC § 4227 to 17 PNC § 2227.

Notes
Subparagraphs (A)–(B) under subsection (c)(2) read (i)–(ii) in the original statute and were changed accordingly to conform to the Code format. Sections referenced in this section have been renumbered to conform with the Code numbering format.

Subchapter III — Cross-Border Movement of Terrorists

§ 2231. Terrorists inadmissible.

(a) The following persons shall be considered inadmissible to Palau for purposes of immigration, or under a temporary visa of any kind, or otherwise, except for the purpose of prosecution or extradition for a terrorist offense:

(1) A foreign national:

(A) convicted of a terrorism offense; or

(B) who admits to having engaged in terrorism;

(C) as to whom there is probable cause to believe such person has engaged in terrorism;

(D) who the Minister of Justice knows, or has reasonable ground to believe, is engaged in or is likely after entry, to engage in terrorism;

(E) who has used his or her position of prominence within any country to endorse or espouse terrorism, or to persuade others to support terrorism or a terrorist organization, in a way that the Minister of Justice has determined undermines Palau's efforts to reduce or eliminate terrorism;

(F) who is a representative of a terrorist organization, specified as such in regulations promulgated by the Minister of Justice or designated as a terrorist organization by the United Nations Security Council; or

(G) who is a representative of a political, social, or other similar group whose public endorsement of terrorism, or terrorist organizations, the Minister of Justice has determined undermines Palau's efforts to reduce or eliminate terrorism;

(2) A foreign national, who the Minister of State, after consultation with the Minister of Justice, determines has been associated with a terrorist organization or terrorism and intends, while in Palau, to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of Palau.

(b) Except as otherwise provided in this section, foreign nationals who are inadmissible under this section, shall be ineligible to be admitted to Palau for any purpose, except, when necessary for the purposes of prosecution or extradition for a terrorism offense, and Title 13 of the Palau National Code is hereby amended to conform to the requirements of this section.

Section Notes

Sources
RPPL 7-28 § 27, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2224], modified, recodifies section from 17 PNC § 4231 to 17 PNC § 2231.

Notes
Paragraphs (A)–(G) under subsection (a)(1) read (i)–(vii) in the original statute and were changed accordingly to conform to the Code format.

§ 2232. Reports of cross-border movement of terrorists.

All airlines, ships, and other entities that provide transportation, conveyance, or freight services to and from Palau shall be authorized and required to immediately report to the Minister of Justice, through disclosure of passenger manifests and any other available means, the intended movement of suspected terrorists into or out of Palau, and information regarding possible forged or falsified travel documents, trafficking of arms, explosives, illicit drugs, contraband, or sensitive materials, and cross-border movement of nuclear, chemical, biological, and other potentially deadly materials.

Section Notes

Sources
RPPL 7-28 § 28.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2225], modified, recodifies section from 17 PNC § 4232 to 17 PNC § 2232.

Subchapter IV — Weapons of Mass Destruction

§ 2235. Weapons of mass destruction offenses.

(a) Except as authorized by the President of the Republic of Palau, any person who knowingly, by any means, directly or indirectly, develops, produces, ships, transports, transfers, receives, acquires, retains, possesses, imports, exports, or manufactures a weapon of mass destruction, commits a crime punishable by the penalties established by Section 2205 of this chapter; provided, however, if done with the intent to engage in terrorism or with knowledge that the weapon of mass destruction is intended to be used for terrorism, the maximum fine shall be increased to one hundred million dollars ($100,000,000) for natural persons and one billion ($1,000,000,000) for legal persons.

(b) Any person who, without lawful authority expressly given by the President of the Republic of Palau, uses or deploys a weapon of mass destruction, commits a crime punishable by the penalties established by Section 2205 of this chapter; provided, however the maximum fine shall be increased to one billion ($1,000,000,000) for natural persons and ten billion dollars ($10,000,000,000) for legal persons.

Section Notes

Sources
RPPL 7-28 § 29, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2226], modified, recodifies section from 17 PNC § 4235 to 17 PNC §2235.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

Subchapter V — Internationally Protected Persons

§ 2241. Implementation of the convention on internationally protected persons.

The purpose of this subchapter is to create offenses relating to internationally protected persons and to give effect to the "United Nations Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons", including diplomatic agents, to which Palau became a party by accession on November 14, 2001.

Section Notes

Sources
RPPL 7-28 § 30, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2227], modified, recodifies section from 17 PNC § 4241 to 17 PNC § 2241.

§ 2242. Internationally protected persons offenses.

Any person who knowingly, by any means, directly or indirectly, perpetrates:

(1) a murder, kidnaping, or other attack upon the person or liberty of an internationally protected person; or

(2) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person, which is likely to endanger the person or his or her liberty; commits a crime punishable by the penalties established by Section 2205 of this chapter.

Section Notes

Sources
RPPL 7-28 § 31, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2228], modified, recodifies section from 17 PNC § 4242 to 17 PNC § 2242.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Subchapter VI — Hostage-Taking

§ 2245. Implementation of the convention on the taking of hostages.

The purpose of this subchapter is to create hostage-taking offenses and to give effect to the "International Convention Against the Taking of Hostages", to which Palau became a party by accession on November 14, 2001.

Section Notes

Sources
RPPL 7-28 § 32, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2229], modified, recodifies section from 17 PNC § 4245 to 17 PNC § 2245.

§ 2246. Hostage-taking offenses.

Any person who knowingly, by any means, directly or indirectly, seizes or detains, and threatens to kill, to injure, or to continue to detain another person, the hostage, in order to compel a third party, namely, Palau, a foreign state, an international intergovernmental organization, a natural or legal person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage, commits a crime punishable by the penalties established by Section 2205 of this chapter.

Section Notes

Sources
RPPL 7-28 § 33, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2230], modified, recodifies section from 17 PNC § 4246 to 17 PNC § 2246.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

Subchapter VII — Terrorist Bombing

§ 2251. Implementation of the convention on terrorist bombings.

The purpose of this subchapter is to create offenses relating to terrorism using explosive or lethal devices and to give effect to the "International Convention for the Suppression of Terrorist Bombings", to which Palau became a party by accession on November 14, 2001.

Section Notes

Sources
RPPL 7-28 § 34.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2231], modified, recodifies section from 17 PNC § 4251 to 17 PNC § 2251.

§ 2252. Terrorist bombing offenses.

Any person who knowingly, by any means, directly or indirectly, delivers, places, discharges, deploys, or detonates any explosive, incendiary weapon, or lethal device that is designed, or has the capability, to cause death, serious bodily injury, or substantial property damage in, into, or against a place of public or private use, a state or government facility, a transportation system or an infrastructure facility:

(1) with the intent to cause death or serious bodily injury; or

(2) with the intent to cause extensive destruction of such a place, facility, or system, where such destruction results in or is likely to result in major economic loss; commits a crime punishable by the penalties established by Section 2235(b) of this chapter for weapons of mass destruction.

Section Notes

Sources
RPPL 7-28 § 35, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2232], modified, recodifies section from 17 PNC § 4252 to 17 PNC § 2252.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Subchapter VIII — Plastic Explosives

§ 2255. Implementation of the convention on plastic explosives.

The purpose of this subchapter is to prohibit unauthorized plastic explosives in Palau, and in particular, unmarked plastic explosives, and to give effect to the "Convention on the Marking of Plastic Explosives for the Purpose of Detection", to which Palau became a party by accession on November 11, 1995.

Section Notes

Sources
RPPL 7-28 § 36.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2233], modified, recodifies section from 17 PNC § 4255 to 17 PNC § 2255.

§ 2256. Prohibition on plastic explosives; offenses.

(a) Unless expressly authorized by the President of the Republic of Palau, plastic explosives shall be prohibited in Palau; provided, however, where authorized by the President for legitimate needs, plastic explosives must contain a detection agent, as defined by the "Convention on the Marking of Plastic Explosives for the Purpose of Detection", and as described in the "Technical Annex" to that convention.

(b) Any person who knowingly, by any means, directly or indirectly, develops, produces, ships, transports, transfers, receives, acquires, retains, possesses, manufactures, imports, or exports an unauthorized plastic explosive commits a crime punishable by a minimum of ten (10) years imprisonment and a maximum fine of fifty thousand dollars ($50,000); provided, however where the plastic explosive was developed, produced, shipped, transported, transferred, received, acquired, retained, possessed, manufactured, imported, or exported with the intent to engage in terrorism, the crime shall be punishable by the penalties established by Section 2235(a) of this chapter for weapons of mass destruction; and provided, further, where the plastic explosive was used or deployed, the penalties established by Section 2235(b) of this chapter for weapons of mass destruction shall apply.

Section Notes

Sources
RPPL 7-28 § 37, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2234], modified, recodifies section from 17 PNC § 4256 to 17 PNC § 2256.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

Subchapter IX — Safety of Civil Aviation

§ 2261. Implementation of the conventions on civil aviation.

The purpose of this subchapter is to create offenses relating to aircraft and airports serving international civil aviation and to give effect to the international civil aviation conventions and protocol identified in Section 2202(18)(A), (B), (C), and (G) of this chapter.

Section Notes

Sources
RPPL 7-28 § 38, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2235], modified, recodifies section from 17 PNC § 4261 to 17 PNC § 2261.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 2262. Civil aviation offenses.

In any airspace or territory where any international civil aviation convention or protocol referenced in Section 2261 would apply, any person who knowingly, by any means, directly or indirectly:

(1) performs an act of violence against a person on board an aircraft in flight, if that act is likely to endanger the safety of that aircraft;

(2) by force or threat, or by any other form of intimidation, seizes or exercises control of an aircraft in flight;

(3) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;

(4) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight;

(5) destroys or damages air navigation facilities used in international air navigation, or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight;

(6) communicates information which the person knows to be false, thereby endangering the safety of an aircraft in flight; or

(7) using any device, substance or weapon:

(A) performs an act of violence against a person at an airport serving international civil aviation, which causes, or is likely to cause, serious injury or death; or

(B) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport;

commits a crime punishable by the penalties established by Section 2205 of this chapter; provided, however, where, in committing such crime, the person uses or deploys a weapon of mass destruction, the penalties established by Section 2235(b) of this chapter shall apply.

Section Notes

Sources
RPPL 7-28 § 39, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2236], modified, recodifies section from 17 PNC § 4262 to 17 PNC § 2262.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 2263. Power to take reasonable measures.

(a) The aircraft commander, when he or she has reasonable grounds to believe that a person has committed, or is about to commit on board the aircraft, a criminal offense or an act which, whether or not it is a criminal offense, may or does jeopardize the safety of an aircraft or of persons or property therein, or which jeopardizes good order and discipline on board an aircraft, may:

(1) impose upon such person reasonable measures, including restraint, which are necessary:

(A) to protect the safety of the aircraft, or of persons or property therein; or

(B) to maintain good order and discipline on board; or

(C) to enable the aircraft commander to deliver such person to competent authorities; or

(2) disembark the person in accordance with the provisions of this subchapter.

(b) The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom the aircraft commander is entitled to restrain.

(c) Any crew member or passenger may also take reasonable preventive measures without such authorization when the crew member or passenger has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

(d) Measures of restraint imposed upon a person in accordance with this section shall be imposed in accordance with and conform to the requirements of the "Convention on Offenses and Certain Other Acts Committed on Board Aircraft".

Section Notes

Sources
RPPL 7-28 § 40, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2237], modified, recodifies section from 17 PNC § 4263 to 17 PNC § 2263.

Notes
Paragraphs (A)–(C) under subsection (a)(1) read (i)–(iii) in the original statute and were changed accordingly to conform to the Code format.

§ 2264. Power to disembark certain passengers.

The aircraft commander may, in so far as it is necessary to protect the safety of the aircraft, or of persons, or property therein, or to maintain good order and discipline on board, disembark, in accordance with the "Convention on Offenses and Certain Other Acts Committed on Board Aircraft", any person who the aircraft commander has reasonable grounds to believe has committed, or is about to commit, on board the aircraft an act contemplated by Section 2263(a)(2).

Section Notes

Sources
RPPL 7-28 § 41, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2238], modified, recodifies section from 17 PNC § 4264 to 17 PNC § 2264.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 2265. Power to deliver alleged offenders to competent authorities.

The aircraft commander may deliver to competent law enforcement authorities, in accordance with the "Convention on Offenses and Certain Other Acts Committed on Board Aircraft", any person who the aircraft commander has reasonable grounds to believe has committed on board the aircraft an act which, in the commander's opinion, is a serious offense according to the criminal laws of the country of registration of the aircraft.

Section Notes

Sources
RPPL 7-28 § 42.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2239], modified, recodifies section from 17 PNC § 4265 to 17 PNC § 2265.

§ 2266. No liability for actions taken.

For actions taken in accordance with Section 2263, 2264, or 2265, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed, shall be held responsible in any proceeding on account of the treatment undergone by the person in respect of whom the actions were taken.

Section Notes

Sources
RPPL 7-28 § 43, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2240], modified, recodifies section from 17 PNC § 4266 to 17 PNC § 2266.

Notes
Sections referenced in this section has been renumbered to conform with the Code numbering format.

Subchapter X — Safety of Maritime Navigation and Fixed Platforms

§ 2271. Implementation of the convention on maritime safety and the fixed platforms protocol.

The purpose of this subchapter is to create offenses relating to the safe navigation of ships on the high seas and the safety of fixed platforms and to give effect to the:

(1) "Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation"; and

(2) "Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf";

to which Palau became a party by accession on December 4, 2001.

Section Notes

Sources
RPPL 7-28 § 44, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2241], modified, recodifies section from 17 PNC § 4271 to 17 PNC § 2271.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 2272. Maritime offenses.

In any waters where the convention and protocol referenced in Section 2271 would apply, any person who knowingly, by any means, directly or indirectly:

(1) seizes or exercises unauthorized control over a ship or fixed platform by force or threat thereof, or by any other form of intimidation; or

(2) injures or kills any person, or endangers the safe navigation of a ship, or endangers the safety of a fixed platform, by:

(A) committing an act of violence against a person on board the ship or fixed platform;

(B) destroying or damaging the ship, its cargo, or the fixed platform;

(C) placing, or causing to be placed, any device or substance on the ship or fixed platform;

(D) destroying or damaging maritime navigational facilities, or interfering with their operation; or

(E) communicating information which the person knows to be false; commits a crime punishable by the penalties established by Section 2205 of this chapter; provided, however, where, in committing such crime, the person uses or deploys a weapon of mass destruction, the penalties established by Section 2235(b) of this chapter shall apply.

Section Notes

Sources
RPPL 7-28 § 45, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2242], modified, recodifies section from 17 PNC § 4272 to 17 PNC § 2272.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Subchapter XI — Nuclear Material

§ 2281. Nuclear material offenses.

Any person who intentionally, by any means, directly or indirectly:

(1) without lawful authority, receives, possesses, uses, transfers, alters, disposes of, or disperses nuclear material, under circumstances which cause or are likely to cause death or serious bodily injury to any person or substantial damage to property;

(2) commits a theft or robbery of nuclear material;

(3) embezzles or fraudulently obtains nuclear material;

(4) makes a demand for nuclear material by threat or use of force or by any other form of intimidation;

(5) threatens:

(A) to use nuclear material to cause death or serious bodily injury to any person or substantial property damage; or

(B) to commit a theft or robbery of nuclear material in order to compel a natural or legal person, or an international organization, or country to do or to refrain from doing any act;

commits a crime punishable by the penalties established by Section 2235(b) of this chapter for weapons of mass destruction.

Section Notes

Sources
RPPL 7-28 § 46, modified.
RPPL 9-21 § 4(i) and § 5 [Chapter 22 § 2243], modified, recodifies section from 17 PNC § 4281 to 17 PNC § 2281.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

DIVISION 4 — OFFENSES AGAINST PROPERTY RIGHTS

Chapter 23 — General Provisions Relating to Offenses Against Property Rights

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 23 read §§ 2300–2302, which has been renumbered to §§ 2301–2303 to conform with the Style of the Code.

§ 2301. Definitions of terms in this division.

In this chapter, unless a different meaning plainly is required, the following definitions apply:

(1) "agricultural equipment, supplies, or products" mean any agricultural equipment, supplies, or commercial agricultural products or commodities raised, grown, or maintained by a commercial agricultural enterprise or educational entity while owned by the enterprise or entity.

(2) "apartment building" means any structure containing one or more dwelling units that is not a hotel or a single-family residence.

(3) "aquacultural equipment, supplies, or products" means any equipment, supplies, products, or commodities used, raised, grown, or maintained for the production of fish, shellfish, mollusk, crustacean, algae, or other aquatic plant or animal by an aquaculture enterprise or research agency while owned by the enterprise or agency.

(4) "building" includes any structure, and the term also includes any vehicle, shipping container, aircraft, or watercraft used for lodging of persons therein; each unit of a building consisting of two or more units separately secured or occupied is a separate building.

(5) "cable operator" means any person who provides cable television service by means of a set of closed transmission paths and associated signal generation, reception, and control equipment designed to deliver such programming to multiple subscribers.

(6) "cable service" means one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection of video programming or other programming service.

(7) "cable television service" means one-way transmission of programming provided by, or generally considered comparable to programming provided by, a television broadcast station or other information made available by a cable operator to all subscribers generally.

(8) "cable television service device" means any mechanical or electronic instrument, apparatus, equipment or device that can be used to obtain cable television services without payment of applicable charges therefor. A "cable television service device" does not include any instrument, apparatus, equipment, device, facility or any component thereof furnished by a cable operator in the ordinary course of its business.

(9) "cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

(10) "confidential personal information" means information in which an individual has a significant privacy interest, including but not limited to a driver's license number, a social security number, an identifying number of a depository account, a bank account number, a password or other information that is used for accessing information, or any other name, number, or code that is used, alone or in conjunction with other information, to confirm the identity of a person.

(11) "control over the property" means the exercise of dominion over the property and includes, but is not limited to, taking, carrying away, or possessing the property, or selling, conveying, or transferring title to or an interest in the property.

(12) "credit card" means any instrument or device, whether known as a credit card, credit plate, debit card, electronic benefits transfer card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value.

(13) "dealer" means a person in the business of buying and selling goods.

(14) "deception" occurs when a person knowingly:

(A) creates or confirms another's impression that is false and that the defendant does not believe to be true;

(B) Fails to correct a false impression that the person previously has created or confirmed;

(C) Prevents another from acquiring information pertinent to the disposition of the property involved;

(D) sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(E) promises performance that the person does not intend to perform or knows will not be performed, but a person's intention not to perform a promise shall not be inferred from the fact alone that the person did not subsequently perform the promise.

(F) however, the term "deception" does not include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means an exaggerated commendation of wares or services in communications addressed to the public or to a class or group.

(15) "deprive" means:

(A) to withhold property or cause it to be withheld from a person permanently or for so extended a period or under such circumstance that a significant portion of its economic value, or of the use and benefit thereof, is lost to the person; or

(B) to dispose of the property so as to make it unlikely that the owner will recover it; or

(C) to retain the property with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or

(D) to sell, give, pledge, or otherwise transfer any interest in the property; or

(E) to subject the property to the claim of a person other than the owner.

(16) "distributes" means to sell, transfer, give or deliver to another, or to leave, barter, or exchange with another, or to offer or agree to do the same.

(17) "dwelling" means a building that is used or usually used by a person for lodging.

(18) "encoding" means making, changing, altering, erasing, adding, creating, or manipulating a credit card number electronically, or magnetically, or both.

(19) "enter or remain unlawfully" means to enter or remain in or upon premises when the person is not licensed, invited, or otherwise privileged to do so. A person who, regardless of the person's intent, enters or remains in or upon premises that are at the time open to the public does so with license and privilege unless the person defies a lawful order not to enter or remain, personally communicated to the person by the owner of the premises or some other authorized person. A license or privilege to enter or remain in a building that is only partly open to the public is not a license or privilege to enter or remain in that part of the building that is not open to the public.

(20) "expired credit card" means a credit card which is no longer valid because the term shown on the credit card has elapsed.

(21) "financial institution" means a bank, trust company, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(22) "government" means the Republic of Palau, or any state within the Republic of Palau, or any ministry, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government, or any corporation or agency formed pursuant to the compact of free association or international treaty.

(23) "hotel" means a structure in which a majority of the tenants are roomers or boarders.

(24) "intent to defraud" means:

(A) an intent to use deception to injure another's interest that has value; or

(B) knowledge by the defendant that the defendant is facilitating an injury to another's interest that has value.

(25) "issuer" means the business organization or financial institution that issues a credit card or its agent.

(26) "master key" means a key that will operate two or more locks to different apartments, offices, hotel rooms, or motel rooms in a common physical location.

(27) "obtain" means:

(A) when used in relation to property, to bring about a transfer of possession or other interest, whether to the obtainer or to another; and

(B) when used in relation to services, to secure the performance of services.

(28) "owner" means a person, other than the defendant, who has possession of or any other interest in, the property involved, even though that possession or interest is unlawful; however, a secured party is not an owner in relation to a defendant who is a debtor with respect to property in which the secured party has only a security interest.

(29) "personal information" means information associated with an actual person or a fictitious person that is a name, an address, a telephone number, an electronic mail address, a driver's license number, a social security number, an employer, a place of employment, information related to employment, an employee identification number, a mother's maiden name, an identifying number of a depository account, a bank account number, a password used for accessing information, or any other name, number, or code that is used, alone or in conjunction with other information, to confirm the identity of an actual or a fictitious person.

(30) "premises" includes any building and any real property.

(31) "property" means any money, personal property, real property, thing in action, evidence of debt or contract, or article of value of any kind. Commodities of a utility such as gas, electricity, and water constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment shall be deemed a rendition of a service rather than a sale or delivery of property.

(32) "property of another" means property that any person, other than the defendant, has possession of or any other interest in, even though that possession or interest is unlawful; however, a security interest is not an interest in property, even if title is in the secured party pursuant to the security agreement.

(33) "receives" or "receiving" includes but is not limited to acquiring possession, control, or title, and taking a security interest in the property.

(34) "revoked credit card" means a credit card that is no longer valid because permission to use the credit card has been suspended or terminated by the issuer.

(35) "services" includes but is not limited to labor, professional services, transportation, telephone, public services, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, and the supplying of equipment for use.

(36) "stolen" means obtained by theft or robbery.

(37) "Telecommunication service" means the offering of transmission between or among points specified by a user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service.

(38) "telecommunication service device" means any mechanical or electronic instrument, apparatus, equipment, or device that can be used to obtain telecommunication services without payment of applicable charges therefor and shall include any such device that is capable of, or has been altered, modified, programmed, or reprogrammed alone or in conjunction with another device or other equipment so as to be capable of acquiring or facilitating the acquisition of any electronic serial number, mobile identification number, personal identification number, or any telecommunication service without

payment of the applicable charges therefor. A "telecommunication service device" includes telecommunication devices altered to obtain service without the consent of the telecommunication service provider, tumbler phones, counterfeit or clone microchips, scanning receivers of wireless telecommunication service of a telecommunication service provider, and other instruments capable of disguising their identity or location or of gaining access to a communications system operated by a telecommunication service provider. A "telecommunication service device" does not include any telephone or telegraph instrument, equipment, device, facility, or any component thereof furnished by a provider of telecommunication services in the ordinary course of its business nor any device operated by a law enforcement agency in the normal course of its activities.

(39) "telecommunication service provider" means any person that owns, operates, manages, or controls any facility used to furnish telecommunication services for profit to the public, or to classes of users as to be effectively available to the public, engaged in the provision of services, such as voice, data, image, graphics, and video services, that make use of all or part of their transmission facilities, switches, broadcast equipment, signaling, or control devices.

(40) "unauthorized control over property" means control over property of another that is not authorized by the owner.

(41) "widely dangerous means" includes explosion, flood, avalanche, collapse of building, poison gas, radioactive material, or any other material, substance, force, or means capable of causing potential widespread injury or damage.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 2301 and RPPL 9-21 § 5 [Chapter 23 § 2300], modified, adds section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Supreme Court Cases
Khair v. Republic of Palau, 2019 Palau 18 ¶ 4 n.3 (App. Div.).
Uchau v. ROP, 2017 Palau 34 ¶¶ 24, 25 n.2 (App. Div.).

§ 2302. Valuation of property or services.

Whenever the value of property or services is determinative of the class or grade of an offense, or otherwise relevant to a prosecution, the following shall apply:

(1) Except as otherwise specified in this section, value means the market value of the property or services at the time and place of the offense, or the replacement cost if the market value of the property or services cannot be determined.

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertained market value, shall be evaluated as follows:

(A) the value of an instrument constituting an evidence of debt, such as a check, traveler's check, draft, or promissory note, shall be deemed the amount due or

collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof that has been satisfied;

(B) the value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(3) When property or services have value but that value cannot be ascertained pursuant to the standards set forth above, the value shall be deemed to be an amount not exceeding one hundred dollars ($100).

(4) When acting intentionally or knowingly with respect to the value of property or services is required to establish an element of an offense, the value of property or services shall be prima facie evidence that the defendant believed or knew the property or services to be of that value. When acting recklessly with respect to the value of property or services is sufficient to establish an element of an offense, the value of the property or services shall be prima facie evidence that the defendant acted in reckless disregard of the value.

(5) When acting intentionally or knowingly with respect to the value of property or services is required to establish an element of an offense, it is a defense that reduces the class or grade of the offense to a class or grade of offense consistent with the defendant's state of mind, that the defendant believed the valuation of the property or services to be less. When acting recklessly with respect to the value of property or services is required to establish an element of an offense, it is a defense that the defendant did not recklessly disregard a risk that the property was of the specified value.

(6) Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether the property taken belongs to one person or several persons, may be aggregated in determining the class or grade of the offense. Amounts involved in offenses of criminal property damage committed pursuant to one scheme or course of conduct, whether the property damaged belongs to one person or several persons, may be aggregated in determining the class or grade of the offense.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 23 § 2301], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 2303. Property recovered in offenses against property rights.

Identification of an item of property recovered for violation of this chapter may be made by photographing the item and authentication of the content of the photograph. Such photograph shall be deemed competent evidence of the item photographed and admissible in any proceeding, hearing, or trial for violation of the chapter.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 23 § 2302], modified.

Chapter 24 — Burglary and Other Offenses of Intrusion

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 24 read §§ 2400–2406, which has been renumbered to §§ 2401–2407 to conform with the Style of the Code.

In RPPL 9-21 Chapter 24, there are several references to "this part" even though RPPL 9-21 does not have parts under Chapter 24. RPPL 9-21 references to "part" have therefore been changed to "chapter" to conform with the Style of the Code.

§ 2401. Burglary offenses; intent to commit therein a crime against a person or against property rights.

For purposes of this chapter, a person engages in conduct "with intent to commit therein a crime against a person or against property rights" if the person formed the intent to commit within the building a crime against a person or property rights before, during, or after unlawful entry into the building.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 2401 and RPPL 9-21 § 5 [Chapter 2 § 2400], modified, adds section.

§ 2402. Burglary in the first degree.

(a) A person commits the offense of burglary in the first degree if the person intentionally enters or remains unlawfully in a building, with intent to commit therein a crime against a person or against property rights, and:
  (1) the person is armed with a dangerous instrument in the course of committing the offense; or
  (2) the person intentionally, knowingly, or recklessly inflicts or attempts to inflict bodily injury on anyone in the course of committing the offense; or
  (3) the person recklessly disregards a risk that the building is the dwelling of another, and the building is such a dwelling.

(b) An act occurs "in the course of committing the offense" if it occurs in effecting entry or while in the building or in immediate flight therefrom.

(c) Burglary in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 2401], modified.

§ 2403. Burglary in the second degree.

(a) A person commits the offense of burglary in the second degree if the person intentionally enters or remains unlawfully in a building with intent to commit therein a crime against a person or against property rights.

(b) Burglary in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 2402], modified.

§ 2404. Unauthorized entry in a dwelling.

(a) A person commits the offense of unauthorized entry in a dwelling if the person intentionally or knowingly enters unlawfully into a dwelling and another person was lawfully present in the dwelling.

(b) Unauthorized entry in a dwelling is a class C felony.

(c) It shall be an affirmative defense that reduces this offense to a misdemeanor if, at the time of the unlawful entry:

(1) there was a social gathering of invited guests at the dwelling the defendant entered;

(2) the defendant intended to join the social gathering; and

(3) the defendant had no intent to commit any unlawful act other than the entry.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 2403], modified.

§ 2405. Criminal trespass in the first degree.

(a) A person commits the offense of criminal trespass in the first degree if:

(1) the person knowingly enters or remains unlawfully:

(A) in a dwelling; or

(B) in or upon the premises of a hotel or apartment building; or

(C) in or upon premises that are enclosed in a manner designed to exclude intruders or are fenced.

(2) The person enters or remains unlawfully in or upon the premises of any public or non-public school as referenced in Title 22 of the Palau National Code, after reasonable warning or request to leave by school authorities or a police officer; provided however, such warning or request to leave shall be unnecessary between 10:00 P.M. and 5:00 A.M.

(b) Criminal trespass in the first degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 2404], modified.

§ 2406. Criminal trespass in the second degree.

(a) A person commits the offense of criminal trespass in the second degree if:

(1) The person enters or remains unlawfully in or upon commercial premises after a reasonable warning or request to leave by the owner or lessee of the commercial premises, the owner's or lessee's authorized agent, or a police officer.

(2) For the purposes of this section, "reasonable warning or request" includes a warning or request communicated in writing at any time within a one-year period inclusive of the date the incident occurred, which may contain but is not limited to the following information:

(A) a warning statement advising the person that the person's presence is no longer desired on the property for a period of one year from the date of the notice, that a violation of the warning will subject the person to arrest and prosecution for trespassing pursuant to 17 PNC Section 2406(a)(1), and that criminal trespass in the second degree is a petty misdemeanor;

(B) the legal name, any aliases, and a photograph, if practicable, or a physical description, including but not limited to sex, racial extraction, age, height, weight, hair color, eye color, or any other distinguishing characteristics of the person warned;

(C) the name of the person giving the warning along with the date and time the warning was given; and

(D) the signature of the person giving the warning, the signature of a witness or police officer who was present when the warning was given and, if possible, the signature of the violator;

(3) The person enters or remains unlawfully on agricultural lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the agricultural lands:

(A) have a sign or signs displayed on the unenclosed cultivated or uncultivated agricultural land sufficient to give notice and reading as follows: "Private Property". The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line; or

(B) at the time of entry, are fallow or have a visible presence of livestock or a crop:

(i) under cultivation; or

(ii) in the process of being harvested; or

(iii) that has been harvested; or

(4) The person enters or remains unlawfully on unimproved or unused lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the lands:

(A) are fenced, enclosed, or secured in a manner designed to exclude the general public; or

(B) have a sign or signs displayed on the unenclosed, unimproved, or unused land sufficient to give reasonable notice and reads as follows: "Private Property – No Trespassing", "Government Property – No Trespassing", or a substantially similar message; provided that the sign or signs shall contain letters not less

than two inches in height and shall be placed at reasonable intervals along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line.

(5) For the purposes of this section, "unimproved or unused lands" means any land upon which there is no improvement; construction of any structure, building, or facility; or alteration of the land by grading, dredging, or mining that would cause a permanent change in the land or that would change the basic natural condition of the land. Land remains "unimproved or unused land" under this paragraph notwithstanding minor improvements, including the installation or maintenance of utility poles, signage, and irrigation facilities or systems; minor alterations undertaken for the preservation or prudent management of the unimproved or unused land, including the installation or maintenance of fences, trails, or pathways; maintenance activities, including forest plantings and the removal of weeds, brush, rocks, boulders, or trees; and the removal or securing of rocks or boulders undertaken to reduce risk to downslope properties.

(b) Criminal trespass in the second degree is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 2405], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 2407. Simple trespass.

(a) A person commits the offense of simple trespass if the person knowingly enters or remains unlawfully in or upon premises.

(b) Simple trespass is a violation.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 2 § 2406], modified.

Chapter 25 — Criminal Damage to Property

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 25 read §§ 2500–2509, which has been renumbered to §§§ 2501–2510 to conform with the Style of the Code.

§ 2501. Criminal property damage in the first degree.

(a) A person commits the offense of criminal property damage in the first degree if:

(1) the person intentionally or knowingly damages property by means other than arson and thereby recklessly places another person in danger of death or bodily injury; or

(2) the person intentionally or knowingly damages the property of another by means other than arson, without the other's consent, in an amount exceeding twenty thousand dollars ($20,000); or

(3) the person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another by means other than arson, without the other's consent, in an amount exceeding one thousand five hundred dollars ($1,500). In calculating the amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production.

(b) Criminal property damage in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 2501 and RPPL 9-21 § 5 [Chapter 25 § 2500], modified, adds section.

§ 2502. Criminal property damage in the second degree.

(a) A person commits the offense of criminal property damage in the second degree if:

(1) the person intentionally or knowingly damages the property of another by means other than arson, without the other's consent, by the use of widely dangerous means; or

(2) the person intentionally or knowingly damages the property of another by means other than arson, without the other's consent, in an amount exceeding one thousand five hundred dollars ($1,500); or

(3) the person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another by means other than arson, without the other's consent, in an amount exceeding five hundred dollars ($500). In calculating the amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production.

(b) Criminal property damage in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 25 § 2501], modified.

Supreme Court Cases
In re Alleged Juvenile Delinquent, 2021 Palau 39 ¶ 5 (Tr. Div.).

§ 2503. Criminal property damage in the third degree.

(a) A person commits the offense of criminal property damage in the third degree if:

(1) the person recklessly damages the property of another by means other than arson, without the other's consent, by the use of widely dangerous means; or

(2) the person intentionally or knowingly damages the property of another by means other than arson, without the other's consent, in an amount exceeding five hundred dollars ($500); or

(3) the person intentionally damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another by means other than arson, without the other's consent, in an amount exceeding one hundred dollars ($100). In calculating the amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production.

(b) Criminal property damage in the third degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 25 § 2502], modified.

§ 2504. Criminal property damage in the fourth degree.

(a) A person commits the offense of criminal property damage in the fourth degree if the person intentionally or knowingly damages the property of another, by means other than arson, without the other's consent.

(b) Criminal property damage in the fourth degree is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 25 § 2503], modified.

§ 2505. Graffiti; sentencing.

(a) Whenever a person is sentenced under 17 PNC §§ 2502, 2503, or 2504 for an offense in which the damage is caused by graffiti, in addition to any penalty prescribed by those sections, the person shall be required to remove the graffiti from the damaged property within thirty days of sentencing, if it has not already been removed and where consent from the respective property owner or owners has been obtained, provided that removal of graffiti shall not place the person or others in physical danger nor inconvenience the public.

(b) In lieu of performing graffiti removal pursuant to subsection (a) above, the court may require a person to perform one hundred hours of community service.

(c) For purposes of this section, "graffiti" means any unauthorized drawing, inscription, figure, or mark of any type intentionally created by paint, ink, chalk, dye, or similar substances.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 25 § 2504], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 2506. Failure to control widely dangerous means.

(a) A person commits the offense of failure to control widely dangerous means if, knowing that widely dangerous means are endangering life or property, the person negligently fails to take measures to prevent or mitigate the danger and:

(1) the person knows that the person is under an official, contractual, or other legal duty to take measures to prevent, control, or mitigate the danger; or

(2) the means were employed by the person or with the person's assent, or on premises in the person's custody or control.

(b) Failure to control widely dangerous means is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 25 § 2505], modified.

§ 2507. Criminal tampering; definitions of terms.

In Sections 2507 and 2508:

(1) to "tamper with" means to interfere improperly with something, meddle with it, or make unwarranted alterations in its existing condition;

(2) "utility" means an enterprise that provides gas, electric, water or communications services, and any common carrier; it may be either publicly or privately owned or operated.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 25 § 2506], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 2508. Criminal tampering in the first degree.

(a) A person commits the offense of criminal tampering in the first degree if, and with intent to cause a substantial interruption or impairment of a service rendered to the public by a utility or by an institution providing health or safety protection, the person damages or tampers with, without the consent of the utility or institution, its property or facilities and thereby causes substantial interruption or impairment of service.

(b) Criminal tampering in the first degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 25 § 2507], modified.

§ 2509. Criminal tampering in the second degree.

(a) A person commits the offense of criminal tampering in the second degree if the person intentionally tampers with property of another person, without the other person's consent, with intent to cause substantial inconvenience to that person or to another.

(b) Criminal tampering in the second degree is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 25 § 2508], modified.

§ 2510. Criminal littering.

(a) A person commits the offense of criminal littering if that person knowingly places, throws, or drops litter on any public or private property or in any public or private waters, except:
   (1) in a place designated by the Republic of Palau for the disposal of garbage and refuse; or
   (2) into a litter receptacle.

(b) "Litter" means rubbish, refuse, waste material, garbage, trash, offal, or debris of whatever kind or description, and whether or not it is of value, and includes improperly discarded paper, metal, plastic, glass, or solid waste.

(c) Criminal littering is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 25 § 2509], modified.

Chapter 26 — Theft and Related Offenses

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 26 read §§ 2600–2616, which has been renumbered to §§ 2601–2617 to conform with the Style of the Code.

§ 2601. Theft.

(a) A person commits theft if the person does any of the following:

(1) Obtains or exerts unauthorized control over property. A person obtains or exerts unauthorized control over the property of another with intent to deprive the other of the property.

(2) Property obtained or control exerted through deception. A person obtains, or exerts control over, the property of another by deception with intent to deprive the other of the property.

(3) Appropriation of property. A person obtains, or exerts control over, the property of another that the person knows to have been lost or mislaid or to have been delivered under a mistake as to the nature or amount of the property, the identity of the recipient, or other facts, and, with the intent to deprive the owner of the property, the person fails to take reasonable measures to discover and notify the owner.

(4) Obtaining services by deception. A person intentionally obtains services, known by the person to be available only for compensation, by deception, false token, or other means to avoid payment for the services. When compensation for services is ordinarily paid immediately upon the rendering of them, absconding without payment or offer to pay is prima facie evidence that the services were obtained by deception.

(5) Diversion of services. Having control over the disposition of services of another to which a person is not entitled, the person intentionally diverts those services to the person's own benefit or to the benefit of a person not entitled thereto.

(6) Failure to make required disposition of funds.

(A) A person intentionally obtains property from anyone upon an agreement, or subject to a known legal obligation, to make specified payment or other disposition, whether from the property or its proceeds or from the person's own property reserved in equivalent amount, and deals with the property as the person's own and fails to make the required payment or disposition. It does not matter that it is impossible to identify particular property as belonging to the victim at the time of the defendant's failure to make the required payment or disposition. A person's status as an officer or employee of the government or a financial institution is prima facie evidence that the person knows the person's legal obligations with respect to making payments and other dispositions. If the officer or employee fails to pay or account upon lawful demand, or if an audit reveals a falsification of accounts, it shall be prima facie evidence that the officer or employee has intentionally dealt with the property as the officer's or employee's own.

(B) A person obtains personal services from an employee upon agreement or subject to a known legal obligation to make a payment or other disposition of funds to a third person on account of the employment, and the person intentionally fails to make the payment or disposition at the proper time.

(7) Receiving stolen property. A person intentionally receives, retains, or disposes of the property of another, knowing that it has been stolen, with intent to deprive the owner of the property. It is prima facie evidence that a person knows the property to have been stolen if, being a dealer in property of the sort received, the person acquires the property for a consideration that the person knows is far below its reasonable value.

(8) Shoplifting.

(A) A person conceals or takes possession of the goods or merchandise of any store or retail establishment, with intent to defraud.

(B) A person alters the price tag or other price marking on goods or merchandise of any store or retail establishment, with intent to defraud.

(C) A person transfers the goods or merchandise of any store or retail establishment from one container to another, with intent to defraud.

(b) The unaltered price or name tag or other marking on goods or merchandise, duly identified photographs or photocopies thereof, or printed register receipts shall be prima facie evidence of value and ownership of such goods or merchandise. Photographs of the goods or merchandise involved, duly identified in writing by the arresting police officer as accurately representing such goods or merchandise, shall be deemed competent evidence of the goods or merchandise involved and shall be admissible in any proceedings, hearings, and trials for shoplifting to the same extent as the goods or merchandise themselves.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2600], modified, and § 3 repeals former § 2601.

Notes
The Code Commission has made technical changes to the designations within this section and designated the undesignated text following paragraph (8)(C) as subsection (b) to conform to the Style of the Code.

Supreme Court Cases
Rechirei v. ROP, 2022 Palau 7 ¶¶ 8, 9 (App. Div.).

§ 2602. Theft in the first degree.

(a) A person commits the offense of theft in the first degree if the person commits theft of property or services, the value of which exceeds twenty thousand dollars ($20,000).

(b) Theft in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2601], modified.

Supreme Court Cases
Rechirei v. ROP, 2022 Palau 7 ¶ 7 (App. Div.).

§ 2603. Theft in the second degree.

(a) A person commits the offense of theft in the second degree if the person commits theft:

(1) of property from the person of another;

(2) of property or services the value of which exceeds three hundred dollars ($300);

(3) of an aquacultural product or part thereof from premises that is fenced or enclosed in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”; or

(4) of agricultural equipment, supplies, or products, or part thereof, the value of which exceeds one hundred dollars ($100) but does not exceed twenty thousand dollars ($20,000), or of agricultural products that exceed twenty-five pounds, from premises that are fenced, enclosed, or secured in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”. The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land in a manner and in such position as to be clearly noticeable from outside the boundary line. Possession of agricultural products without documentation of ownership, where such a document would be required, is prima facie evidence that the products are or have been stolen.

(b) Theft in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2602], modified.

§ 2604. Theft in the third degree.

(a) A person commits the offense of theft in the third degree if the person commits theft of property or services the value of which exceeds one hundred dollars ($100).

(b) Theft in the third degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2603], modified.

§ 2605. Theft in the fourth degree.

(a) A person commits the offense of theft in the fourth degree if the person commits theft of property or services of any value not in excess of one hundred dollars ($100).

(b) Theft in the fourth degree is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2604], modified.

§ 2606. Defenses: unawareness of ownership; claim of right; household belongings; co-interest not a defense.

(a) It is a defense to a prosecution for theft that the defendant:

(1) was unaware that the property or service was that of another; or

(2) reasonably believed that the defendant was entitled to the property or services under a claim of right or that the defendant was authorized, by the owner or by law, to obtain or exert control as the defendant did.

(b) If the owner of the property is the defendant's spouse, it is a defense to a prosecution for theft of property that:

(1) the property that is obtained or over which unauthorized control is exerted constitutes household belongings; and

(2) the defendant and the defendant's spouse were living together at the time of the conduct.

(c) "Household belongings" means furniture, personal effects, vehicles, money or its equivalent in amounts customarily used for household purposes, and other property usually found in and about the common dwelling and accessible to its occupants.

(d) In a prosecution for theft, it is not a defense that the defendant has an interest in the property if the owner has an interest in the property to which the defendant is not entitled.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2605], modified.

§ 2607. Proof of theft offense.

A charge of an offense of theft in any degree may be proved by evidence that it was committed in any manner that would be theft under 17 PNC Section 2601, notwithstanding the specification of a different manner in the information, or other charge, subject only to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2606], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 2608. Unauthorized control of propelled vehicle.

(a) A person commits the offense of unauthorized control of a propelled vehicle if the person intentionally or knowingly exerts unauthorized control over another's propelled vehicle by operating the vehicle without the owner's consent or by changing the identity of the vehicle without the owner's consent.

(b) "Propelled vehicle" means an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle.

(c) It is an affirmative defense to a prosecution under this section that the defendant:

(1) received authorization to use the vehicle from an agent of the owner where the agent had actual or apparent authority to authorize such use; or

(2) is a lien holder or legal owner of the propelled vehicle, or an authorized agent of the lien holder or legal owner, engaged in the lawful repossession of the propelled vehicle.

(d) For the purposes of this section, "owner" means the registered owner of the propelled vehicle or the unrecorded owner of the vehicle pending transfer of ownership; provided that if there is no registered owner of the propelled vehicle or unrecorded owner of the vehicle pending transfer of ownership, "owner" means the legal owner.

(e) Unauthorized control of a propelled vehicle is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2607], modified.

Supreme Court Cases
In re Alleged Juvenile Delinquent, 2021 Palau 39 ¶ 5 (Tr. Div.).

§ 2609. Unauthorized entry into motor vehicle in the first degree.

(a) A person commits the offense of unauthorized entry into motor vehicle in the first degree if the person intentionally or knowingly enters or remains unlawfully in a motor vehicle, without being invited, licensed, or otherwise authorized to enter or remain within the vehicle, with the intent to commit a crime against a person or against property rights.

(b) Unauthorized entry into motor vehicle in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2608], modified.

§ 2610. Unauthorized entry into motor vehicle in the second degree.

(a) A person commits the offense of unauthorized entry into a motor vehicle in the second degree if the person intentionally or knowingly enters into a motor vehicle without being invited, licensed, or otherwise authorized to do so.

(b) Unauthorized entry into a motor vehicle in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2609], modified.

§ 2611. Failure to return a rental motor vehicle; penalty.

(a) A person commits the offense of failure to return a rental motor vehicle when he or she intentionally does not return the motor vehicle to the person, or his or her agent, from whom the vehicle was rented within forty-eight hours after the time stated on the rental agreement, unless the person renting the vehicle gives notice during the rental agreement period or as soon as practical before the expiration of the forty-eight hour period, that he or she will not be able

to return the vehicle in the stated time and extends the time in which the vehicle will be returned.

(b) Failure to return a rental motor vehicle is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2610], modified.

§ 2612. Failure to return leased or rented personal property; penalty.

(a) A person commits the offense of failure to return leased or rented personal property other than a rental motor vehicle, when he or she knowingly or intentionally does not return the leased or rented personal property to the person, or his or her agent, from whom the personal property was leased or rented within fourteen days after the return date stated in the lease or rental contract, unless the person leasing or renting the personal property gives notice before the return date stated in the lease or rental contract, that he or she will not be able to return the leased or rented personal property by the date stated and with the permission of the owner of the property or his or her agent extends the date by which the personal property will be returned.

(b) Failure to return leased or rented personal property is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2611], modified.

§ 2613. Removal of identification marks.

(a) A person commits the offense of removal of identification marks if the person intentionally or knowingly, to conceal the true ownership of the property of another, defaces, erases, or otherwise alters any serial number or identification mark placed or inscribed by the manufacturer on any moveable or immovable object, equipment, appliance, merchandise, or other article or component parts thereof, with a value of more than twenty-five dollars ($25).

(b) A person removes identification marks if the person attempts to or succeeds in erasing, defacing, altering, or removing a serial number or identification mark or part thereof, on the property of another.

(c) Removal of identification marks is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2612], modified.

§ 2614. Theft of utility services.

(a) For purposes of this section:

(1) “customer” means the person in whose name the utility service is provided.

(2) “divert” means to change the intended course or path of utility services without the authorization or consent of the utility.

(3) "person" means any individual, partnership, firm, association, corporation, or other legal entity.

(4) "Reconnecting" means the Reconnecting of utility service by a customer or other person after service has been lawfully disconnected by the utility.

(5) "utility" means any person that provides electricity, gas, water or sewer services.

(6) "utility service" means the provision of electricity, gas, water, sewer or any other service provided by the utility for compensation.

(b) A person commits the offense of theft of utility services if the person, with intent to obtain utility services for the person's own or another's use without paying the full lawful charge therefor, or with intent to deprive any utility of any part of the full lawful charge for utility services it provides, commits, authorizes, solicits, aids, or abets any of the following:

(1) diverts, or causes to be diverted utility services, by any means whatsoever;

(2) prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function;

(3) makes or causes to be made any connection or Reconnecting with property owned or used by the utility to provide utility services, without the authorization or consent of the utility; or

(4) uses or receives the direct benefit of all or a portion of utility services with knowledge or reason to believe that a diversion, prevention of accurate measuring function, or unauthorized connection existed at the time of use or that the use or receipt was otherwise without the authorization or consent of the utility.

(c) In any prosecution under this section, the presence of any of the following objects, circumstances, or conditions on premises controlled by the customer, or by the person using or receiving the direct benefit of all or a portion of utility services obtained in violation of this section, shall create a rebuttable presumption that the customer or person intended to and did violate this section:

(1) any instrument, apparatus, or device primarily designed to be used to obtain utility services without paying the full lawful charge; or

(2) any meter that has been diverted or prevented from accurately performing its measuring function so as to cause no measurement or inaccurate measurement of utility services.

(d)

(1) A person commits the offense of theft of utility services in the first degree in cases where the theft:

(A) accrues to the benefit of any commercial trade or business, including any commercial trade or business operating in a residence, home, or dwelling;

(B) is obtained through the services of a person hired to commit the theft of utility services; in which event, both the person hired and the person responsible for the hiring shall be punished under this section as a class C felony; or

(C) accrues to the benefit of a residence, home, or dwelling where the value of the theft of utility services exceeds three hundred dollars ($300).

(2) Theft of utility services in the first degree is a class C felony.

(e) A person commits theft of utility services in the second degree if the person commits theft of utility services other than as provided in subsection (d). Theft of utility services in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2613], modified.

Notes
The Code Commission has made technical changes to the designations within subsection (d) to designate the undesignated text and conform to the Style of the Code.

§ 2615. Theft of government property in the first degree.

(a) A person commits the offense of theft of government property in the first degree if the person intentionally or knowingly embezzles, steals, purloins, converts, sells, conveys or disposes of any money, funds, or thing of value of the national government of the Republic, its political subdivisions, state or municipal governments, or of any ministry, bureau or agency thereof; or whoever receives, conceals, or retains the same with intent to convert it to his or her use or gain, knowing it to have been embezzled, stolen, purloined or converted.

(b) Theft of government property is a class C felony if the value of the government property is three hundred dollars ($300) or less. Theft of government property is a class B felony if the value of the government property is more than three hundred dollars ($300) but less than twenty thousand dollars ($20,000). Theft of government property is a class A felony if the value of the government property is twenty thousand dollars ($20,000) or more.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2614], modified.

Supreme Court Cases
In re Carmene Dermody, 2024 Palau 7 ¶ 4 (App. Div.).
Gibbons v. Republic of Palau, 2023 Palau 27 ¶ 5 (App. Div.).
Ngeluk v. Republic of Palau, 2023 Palau 26 ¶¶ 1, 6, 8 (App. Div.).
Yoshiwo v. Republic of Palau, 2023 Palau 12 ¶ 3 (App. Div.).
Yoshiwo v. Republic of Palau, 2022 Palau 15 ¶ 4 (App. Div.).
Republic of Palau v. Ngarchelong State Gov't., 2019 Palau 5 ¶ 5 (App. Div.).

§ 2616. Theft of government property in the second degree.

(a) A person commits the offense of theft of government property in the second degree if that person without proper authority intentionally or knowingly possesses or removes from its location any property of any kind, wherever situated, of the government of the Republic, its political subdivisions, states or municipal governments.

(b) Theft of government property in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2615], modified.

§ 2617. Unauthorized possession of confidential personal information.

(a) A person commits the offense of unauthorized possession of confidential personal information if that person intentionally or knowingly possesses, without authorization, any confidential personal information of another in any form, including but not limited to mail, physical documents, identification cards, or information stored in digital form.

(b) It is an affirmative defense that the person who possessed the confidential personal information of another did so under the reasonable belief that the person in possession was authorized by law or by the consent of the other person to possess the confidential personal information.

(c) Unauthorized possession of confidential personal information is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 26 § 2616], modified.

Chapter 27 — Robbery

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 27 read §§ 2700–2702, which has been renumbered to §§ 2701–2703 to conform with the Style of the Code.

§ 2701. Robbery in the first degree.

(a) A person commits the offense of robbery in the first degree if, in the course of committing theft or non-consensual taking of a motor vehicle:

(1) the person attempts to kill another or intentionally or knowingly inflicts or attempts to inflict serious bodily injury upon another;

(2) the person is armed with a dangerous instrument and:

(A) the person uses force against the person of anyone present with intent to overcome that person's physical resistance or physical power of resistance; or

(B) the person threatens the imminent use of force against the person of anyone present with intent to compel acquiescence to the taking of or escaping with the property.

(b) As used in this section, "dangerous instrument" means any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

(c) Robbery in the first degree is a class A felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 2701 and RPPL 9-21 § 5 [Chapter 27 § 2700], modified, adds section.

§ 2702. Robbery in the second degree.

(a) A person commits the offense of robbery in the second degree if, in the course of committing theft or nonconsensual taking of a motor vehicle:

(1) the person uses force against the person of anyone present with the intent to overcome that person's physical resistance or physical power of resistance;

(2) the person threatens the imminent use of force against the person of anyone who is present with intent to compel acquiescence to the taking of or escaping with the property; or

(3) the person recklessly inflicts serious bodily injury upon another.

(b) Robbery in the second degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 27 § 2701], modified.

§ 2703. Definition.

For purposes of Sections 2701 and 2702 of this chapter, an act shall be deemed "in the course of committing a theft or non-consensual taking of a motor vehicle" if it occurs in an attempt to commit theft or non-consensual taking of a motor vehicle, in the commission of theft or non-consensual taking of a motor vehicle, or in the flight after the attempt or commission.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 27 § 2702], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

Chapter 28 — Forgery and Related Offenses

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 28 read §§ 2800–2809, which has been renumbered to §§ 2801–2810 to conform with the Style of the Code.

In RPPL 9-21 Chapter 28, there are several references to "this part" even though RPPL 9-21 does not have parts under Chapter 28. RPPL 9-21 references to "part" have therefore been changed to "chapter" to conform with the Style of the Code.

§ 2801. Definitions of terms in this chapter.

In this chapter, unless a different meaning plainly is required:

(1) "written instrument" means:

(A) any paper, document, or other instrument containing written or printed matter or its equivalent; or

(B) any token, coin, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege, or identification;

(2) "complete written instrument" means a written instrument that purports to be genuine and fully drawn with respect to every essential feature thereof;

(3) "incomplete written instrument" means a written instrument that contains some matter by way of content or authentication but that requires additional matter in order to render it a complete written instrument;

(4) "falsely make," in relation to a written instrument, means to make or draw a complete written instrument, or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or issuing commercial establishment, but that is not either because the ostensible maker, or issuing commercial establishment is fictitious or because, if real, the same did not authorize the making or drawing thereof;

(5) "falsely complete," in relation to a written instrument, means to transform, by adding, inserting, or changing matter, an incomplete written instrument into a complete one, without the authority of the ostensible maker, drawer, or issuing commercial establishment, so that the complete written instrument falsely appears or purports to be in all respects an authentic creation of its ostensible maker, authorized by the maker, or issuing commercial establishment;

(6) "falsely alter," in relation to a written instrument, means to change, without the authority of the ostensible maker, drawer, or issuing commercial establishment, a written instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that the instrument so altered falsely appears or purports to be in all respects an authentic creation of its ostensible maker, authorized by the maker, or issuing commercial establishment;

(7) "forged instrument" means a written instrument that has been falsely made, completed, endorsed, or altered;

(8) "utter," in relation to a forged instrument, means to offer, whether accepted or not, a forged instrument with representation by acts or words, oral or in writing, that the instrument is genuine;

(9) "falsely endorse," in relation to a written instrument, means to endorse, without the authority of the ostensible maker, drawer, or issuing commercial establishment, any part of a written instrument, whether complete or incomplete, so that the written instrument so endorsed falsely appears or purports to be authorized by the ostensible maker, drawer, or issuing commercial establishment; and

(10) "fraudulently encode magnetic ink character recognition numbers," in relation to a written instrument, means to change, alter, erase, add, create, tamper with, or manipulate the magnetic ink character recognition numbers, or symbols representing to be magnetic ink character recognition numbers, from the issuing commercial establishment.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 28 § 2800], modified.

§ 2802. Forgery in the first degree.

(a) A person commits the offense of forgery in the first degree if, with intent to defraud, the person falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument, or fraudulently encodes the magnetic ink character recognition numbers, which is or purports to be, or which is calculated to become or to represent if completed:

(1) part of an issue of stamps, securities, or other valuable instruments issued by a government or governmental agency; or

(2) part of an issue of stock, bonds, or other instruments representing interests in or claims against a corporate or other organization or its property.

(b) Forgery in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 28 § 2801], modified.

§ 2803. Forgery in the second degree.

(a) A person commits the offense of forgery in the second degree if, with intent to defraud, the person falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument, or fraudulently encodes the magnetic ink character recognition numbers, which is or purports to be, or which is calculated to become or to represent if completed, a deed, will, codicil, contract, assignment, commercial instrument, or other instrument that does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status.

(b) Forgery in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 28 § 2802], modified.

§ 2804. Forgery in the third degree.

(a) A person commits the offense of forgery in the third degree if, with intent to defraud, the person falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument.

(b) Forgery in the third degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 28 § 2803], modified.

§ 2805. Criminal possession of a forgery device.

(a) A person commits the offense of criminal possession of a forgery device if:

(1) the person makes or possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed or adapted for use in forging written instruments; or

(2) the person makes or possesses any device, apparatus, equipment, or article capable of or adaptable to use in forging written instruments with intent to use it oneself, or to aid or permit another to use it, for purposes of forgery.

(b) Criminal possession of a forgery device is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 28 § 2804], modified.

§ 2806. Criminal simulation.

(a) A person commits the offense of criminal simulation if, with intent to defraud, the person makes, alters, or utters any object, so that it appears to have an antiquity, rarity, source, or authorship that it does not in fact possess.

(b) In subsection (a) above, "utter" means to offer, whether accepted or not, an object with representation by acts or words, oral or in writing, relating to its antiquity, rarity, source, or authorship.

(c) Criminal simulation is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 28 § 2805], modified.

§ 2807. Obtaining signature by deception.

(a) A person commits the offense of obtaining a signature by deception if, with intent to defraud, the person:

(1) causes another, by deception, to sign or execute a written instrument; or

(2) utters the written instrument specified in paragraph (1).

(b) Obtaining a signature by deception is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 28 § 2806], modified.

Notes
The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 2808. Negotiating a worthless negotiable instrument.

(a) The definitions of the following terms shall apply to this section:

(1) "issue" means the first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person.

(2) "negotiable Instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(A) is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(B) is payable on demand or at a definite time; and

(C) does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain:

(i) an undertaking or power to give, maintain, or protect collateral to secure payment;

(ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral; or

(iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor.

(3) "instrument" means a negotiable instrument.

(4) An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft", a person entitled to enforce the instrument may treat it as either.

(5) "check" means:

(A) a draft, other than a documentary draft, payable on demand and drawn on a bank;

(B) a cashier's check or teller's check; or

(C) a demand draft.

(D) An instrument may be a check even though it is described on its face by another term, such as "money order".

(6) "cashier's check" means a draft with respect to which the drawer and the drawee are the same bank or branches of the same bank.

(7) "teller's check" means a draft drawn by a bank:

(A) on another bank; or

(B) payable at or through a bank.

(8) "traveler's check" means an instrument that:

(A) is payable on demand;

(B) is drawn on or payable at or through a bank;

(C) is designated by the term "traveler's check" or by a substantially similar term; and

(D) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(9) "certificate of deposit" means an instrument containing an acknowledgement by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

(10) "demand draft" means a writing not signed by a customer that is created by a third party under the purported authority of the customer for the purpose of charging the customer's account with a bank. A demand draft may contain any of all of the following:

(A) the customer's printed or typewritten name or account number;

(B) a notation that the customer authorized the draft; or

(C) the statement "No Signature Required" or words to that effect.

(11) "negotiation" means:

(A) A transfer of possession, whether voluntary or involuntary, of an instrument by a person other than the issuer to a person who thereby becomes its holder.

(B) Except for negotiation by a remitter, if an instrument is payable to an identified person, negotiation requires transfer of possession of the instrument and its endorsement by the holder. If an instrument is payable to bearer, it may be negotiated by transfer of possession alone.

(12) "notice of dishonor" means:

(A) The obligation of an endorser and the obligation of a drawer may not be enforced unless the endorser or drawer is given notice of dishonor of the instrument complying with this section; or notice of dishonor is excused.

(B) Notice of dishonor may be given by any person; may be given by any commercially reasonable means, including an oral, written, or electronic communication; and is sufficient if it reasonably identifies the instrument and indicates that the instrument has been dishonored or has not been paid or accepted. Return of an instrument given to a bank for collection is sufficient notice of dishonor.

(C) With respect to an instrument taken for collection by a collecting bank, notice of dishonor must be given by the bank before midnight of the next banking day following the banking day on which the bank receives notice of dishonor of the instrument; or by any other person within thirty days following the day on which the person receives notice of dishonor. With respect to any other instrument, notice of dishonor must be given within thirty days following the day on which dishonor occurs.

(b) A person commits the offense of negotiating a worthless negotiable instrument if that person intentionally issues or negotiates a negotiable instrument knowing that it will not be honored by the maker or drawee.

(c) For the purpose of this section, as well as in any prosecution for theft committed by means of a worthless negotiable instrument, either of the following shall be prima facie evidence that the drawer knew that the negotiable instrument would not be honored upon presentation:

(1) the drawer had no account with the drawee at the time the negotiable instrument was negotiated; or

(2) payment was refused by the drawee for lack of funds upon presentation within thirty days after date or issue, whichever is later, and the drawer failed to make good within ten days after actual receipt of a notice of dishonor.

(d) Negotiating a worthless negotiable instrument is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 28 § 2807], modified.

Sources
The Code Commission has designated the undesignated text following subsection (a)(5)(C) as subparagraph (D) to conform to the Style of the Code.

§ 2809. Suppressing a testamentary or recordable instrument.

(a) A person commits the offense of suppressing a testamentary instrument if, with intent to defraud, the person destroys, removes, or conceals any will, codicil, or other testamentary instrument.

(b) A person commits the offense of suppressing a recordable instrument if, with intent to defraud, the person destroys, removes, or conceals any deed, mortgage, security instrument, or other written instrument for which the law provides public recording.

(c) Suppressing a testamentary or recordable instrument is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 28 § 2808], modified.

§ 2810. Counterfeiting.

(a) Every person who, with intent to defraud, falsely makes, forges, photographs, counterfeits or alters any currency or obligation or security of any country, shall be guilty of counterfeiting.

(b) Every person who, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or with like intent bring into the Republic or keeps in possession or conceals any falsely made, forged, photographed, counterfeited or altered currency or obligation or security of any country shall be guilty of counterfeiting.

(c) Every person who knowingly buys, sells, exchanges, transfers, receives, or delivers any false, forged, photographed, counterfeited or altered currency or obligation or security of any country, with the intent that the same shall be passed, published, or used as true and genuine, shall be guilty of counterfeiting.

(d) Counterfeiting is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 28 § 2809], modified.

Chapter 29 — Business, Commercial and Land Frauds

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 29 read §§ 2900–2907, which has been renumbered to §§ 2901–2907 to conform with the Style of the Code.

§ 2901. Deceptive business practices.

(a) A person commits the offense of deceptive business practices if in the course of engaging in a business, occupation, or profession the person knowingly or recklessly:
  (1) uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or
  (2) sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; or
  (3) takes or attempts to take more than the represented quantity of any commodity or service when as buyer the person furnishes the weight or measure; or
  (4) sells or offers for sale adulterated commodities; or
  (5) sells or offers or exposes for sale mislabeled commodities.

(b) "adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative rule or regulation, or if none, as set by established commercial usage.

(c) "mislabeled" means:
  (1) varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative rule or regulation, or if none, as set by established commercial usage; or
  (2) represented as being another person's product, though otherwise labeled accurately as to quality and quantity.

(d) Deceptive business practices is a misdemeanor.

(e) This section does not apply to deceptive business practices, as defined in subsection (a) of this section, for which a specific penalty is provided by a statute other than this Penal Code.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 2901 and RPPL 9-21 § 5 [Chapter 29 § 2900], modified adds section.

Notes
The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 2902. False advertising.

(a) A person commits the offense of false advertising if, in connection with the promotion of the sale of property or services, the person knowingly or recklessly makes or causes to be made a

false or misleading statement in any advertisement addressed to the public or to a substantial number of persons.

(b) "Misleading statement" includes an offer to sell property or services if the offeror does not intend to sell or provide the advertised property or services:

(1) at the price equal to or lower than the price offered; or

(2) in a quantity sufficient to meet the reasonably- expected public demand, unless quantity is specifically stated in the advertisement; or

(3) at all.

(c) False advertising is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 29 § 2901], modified.

§ 2903. Falsifying business records.

(a) A person commits the offense of falsifying business records if, with intent to defraud, the person:

(1) makes or causes a false entry in the business records of an enterprise; or

(2) alters, erases, obliterates, deletes, removes, or destroys a true entry in the business records of an enterprise; or

(3) omits to make a true entry in the business records of an enterprise in violation of a duty to do so that the person knows to be imposed upon the person by law, other than for the information of the government, or by the nature of the person's position; or

(4) prevents the making of a true entry or causes the omission thereof in the business records of an enterprise.

(b) "Enterprise" means any entity of one or more persons, corporate or otherwise, engaged in business, commercial, professional, industrial, charitable, or social activity.

(c) "Business record" means any writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity.

(d) Falsifying business records is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 29 § 2902], modified.

§ 2904. Defrauding secured creditors.

(a) A person commits the offense of defrauding secured creditors if the person destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with intent to hinder enforcement of that interest.

(b) Defrauding secured creditors is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 29 § 2903], modified.

§ 2905. Misapplication of entrusted property.

(a) A person commits the offense of misapplication of entrusted property if, with knowledge that he or she is misapplying property and that the misapplication involves substantial risk of loss or detriment to the owner of the property or to a person for whose benefit the property was entrusted, he or she misapplies or disposes of property that has been entrusted to him or her as a fiduciary or that is property of the government or a financial institution.

(b) "Fiduciary" includes a trustee, guardian, personal representative, receiver, or any other person acting in a fiduciary capacity, or any person carrying on fiduciary functions on behalf of a corporation or other organization that is a fiduciary.

(c) To "misapply property" means to deal with the property contrary to law or governmental regulation relating to the custody or disposition of that property; "governmental regulation" includes administrative and judicial rules and regulations and orders as well as statutes.

(d) Misapplication of property is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 29 § 2904], modified.

§ 2906. Trademark counterfeiting.

(a) A person commits the offense of trademark counterfeiting who knowingly manufactures, produces, displays, advertises, distributes, offers for sale, sells, or possesses with the intent to sell or distribute any item bearing or identified by a counterfeit mark, knowing that the mark is counterfeit.

(b) As used in this section:

(1) "counterfeit mark" means any spurious mark that is identical to or confusingly similar to any print, label, trademark, service mark, or trade name registered in accordance with registered on the Principal Register of the United States Patent and Trademark Office.

(2) "sale" includes resale.

(3) "trademark" means any word, name, symbol, or device or any combination thereof used by a person to identify and distinguish the goods of the person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if that source is unknown.

(c) Trademark counterfeiting is a class C felony.

(d) In any action brought under this section resulting in a conviction or a plea of no contest, the court shall order the forfeiture and destruction of all counterfeit marks and the forfeiture and destruction or other disposition of all items bearing a counterfeit mark, and all personal property, including any items, objects, tools, machines, equipment, instrumentalities, or

vehicles of any kind, employed or used in connection with a violation of this section, in accordance with the procedures set forth in 17 PNC Chapter 7 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 29 § 2905], modified.

Notes
The text in subsection (b)(1) that reads "or trade name registered in accordance with registered on the Principal Register of the United States Patent and Trademark Office" reads as such in RPPL 9-21.

§ 2907. Fraudulent conveyance of land.

(a) A person commits the offense of fraudulent conveyance of land if the person intentionally or knowingly conveys land that has previously been conveyed to another.

(b) Fraudulent conveyance of land is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 29 § 2906], modified.

§ 2908. Fraudulent recording.

(a) A person commits the offense of fraudulent recording if the person knowingly submits to the Clerk of Courts for recording, or records a document establishing or purporting to be evidence of an interest in land, which document the person knows to be forged or fraudulent.

(b) Fraudulent recording is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 29 § 2907], modified.

Chapter 30 — Offenses Affecting Occupations

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 30 read § 3000, which has been renumbered to § 3001 to conform with the Style of the Code.

§ 3001. Commercial bribery.

(a) A person commits the offense of commercial bribery if:

(1) the person confers or offers or agrees to confer, directly or indirectly, any benefit upon:

(A) an agent with intent to influence the agent to act contrary to a duty to which, as an agent, he or she is subject; or

(B) an appraiser with intent to influence the appraiser in his or her selection, appraisal, or criticism; or

(2) being an agent, an appraiser, or agent in charge of employment, he or she solicits, accepts, or agrees to accept, directly or indirectly, any benefit from another person with intent:

(A) in the case of an agent, that he or she will thereby be influenced to act contrary to a duty to which, as an agent, he or she is subject; or

(B) in the case of an appraiser, that he or she will thereby be influenced in his or her selection, appraisal, or criticism; or

(C) in the case of an agent in charge of employment, that he or she will thereby be influenced in the exercise of his or her discretion or power with respect to hiring someone, or retaining someone in employment, or discharging or suspending someone from employment.

(b) For purposes of this section:

(1) "agent" means:

(A) an agent or employee of another;

(B) a trustee, guardian, or other fiduciary;

(C) a lawyer, physician, accountant, appraiser, or other professional adviser or informant;

(D) an officer, director, partner, manager, or other participant in the direction of the affairs of an incorporated or unincorporated association; or

(E) an arbitrator or other purportedly disinterested adjudicator or referee.

(2) "appraiser" means a person who holds himself or herself out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of commodities or services.

(3) "agent in charge of employment" does not include any person conducting a private employment agency licensed and operating in accordance with law.

(c) Commercial bribery is a misdemeanor, except in the event that the value of the benefit referred to in subsection (a) exceeds one thousand dollars ($1,000), in which case commercial bribery shall be a class C felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3001 and RPPL 9-21 § 5 [Chapter 30 § 3000], modified, adds section.

Chapter 31 — Computers Crimes

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 31 read §§ 3100–3110, which has been renumbered to §§ 3101–3111 to conform with the Style of the Code.

In RPPL 9-21 Chapter 31, there are several references to "this part" even though RPPL 9-21 does not have parts under Chapter 31. RPPL 9-21 references to "part" have therefore been changed to "chapter" to conform with the Style of the Code.

§ 3101. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "access" means to gain entry to, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

(2) "computer" means any electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, and includes all computer equipment connected or related to such a device in a computer system or computer network, but shall not include an automated typewriter or typesetter, a portable hand-held calculator, or other similar device.

(3) "computer equipment" means any equipment or devices, including all input, output, processing, storage, software, or communications facilities, intended to interface with the computer.

(4) "computer network" means two or more computers or computer systems, interconnected by communication lines, including microwave, electronic, or any other form of communication.

(5) "computer program" or "software" means a set of computer-readable instructions or statements and related data that, when executed by a computer system, causes the computer system or the computer network to which it is connected to perform computer services.

(6) "computer services" includes but is not limited to the use of a computer system, computer network, computer program, data prepared for computer use, and data contained within a computer system or computer network.

(7) "computer system" means a set of interconnected computer equipment intended to operate as a cohesive system.

(8) "damage" means any impairment to the integrity or availability of data, a program, a system, a network, or computer services.

(9) "data" means information, facts, concepts, software, or instructions prepared for use in a computer, computer system, or computer network.

(10) "obtain information" includes but is not limited to mere observation of the data.

(11) "property" includes financial instruments, data, computer software, computer programs, documents associated with computer systems, money, computer services, or anything else of value.

(12) "rule of court" means any rule adopted by the Supreme Court of the Republic of Palau.

(13) "statute" includes the Constitution of the Republic of Palau and any local law or regulation of a political subdivision of the Republic of Palau, and any State Constitution and any State law or regulation of a political subdivision of any State of the Republic of Palau.

(14) "without authorization" means without the permission of or in excess of the permission of an owner, lessor, or rightful user or someone licensed or privileged by an owner, lessor, or rightful user to grant the permission.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3101 and RPPL 9-21 § 5 [Chapter 31 § 3100], modified, adds section.

§ 3102. Computer fraud in the first degree.

(a) A person commits the offense of computer fraud in the first degree if the person knowingly, and with intent to defraud, accesses a computer without authorization and, by means of such conduct, obtains or exerts control over the property of another.

(b) In a prosecution for computer fraud in the first degree, it is a defense that the object of the fraud and the property obtained consists only of the use of the computer and the value of such use is not more than three hundred dollars ($300) in any one-year period.

(c) Computer fraud in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3102 and RPPL 9-21 § 5 [Chapter 31 § 3101], modified, adds section.

§ 3103. Computer fraud in the second degree.

(a) A person commits the offense of computer fraud in the second degree if the person knowingly, and with the intent to defraud, transfers, or otherwise disposes of, to another, or obtains control of, with the intent to transfer or dispose of, any password or similar information through which a computer, computer system, or computer network may be accessed.

(b) Computer fraud in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3103 and RPPL 9-21 § 5 [Chapter 31 § 3102], modified, adds section.

§ 3104. Computer damage in the first degree.

(a) A person commits the offense of computer damage in the first degree if:

(1) the person knowingly causes the transmission of a program, information, code, or command, and thereby knowingly causes unauthorized damage to a computer, computer system, or computer network; or

(2) the person intentionally accesses a computer, computer system, or computer network without authorization and thereby knowingly causes damage.

(b) As used in this section, the "damage" must:

(1) result in a loss aggregating at least five thousand dollars ($5,000) in value, including the costs associated with diagnosis, repair, replacement, or remediation, during any one-year period to one or more individuals;

(2) result in the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of one or more individuals;

(3) result in physical injury to any person;

(4) threaten public health or safety; or

(5) impair the administration of justice.

(c) Computer damage in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3104 and RPPL 9-21 § 5 [Chapter 31 § 3103], modified, adds section.

§ 3105. Computer damage in the second degree.

(a) A person commits the offense of computer damage in the second degree if the person knowingly accesses a computer, computer system, or computer network without authorization and thereby recklessly causes damage.

(b) Computer damage in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3105 and RPPL 9-21 § 5 [Chapter 31 § 3104], modified, adds section.

Supreme Court Cases
Keptot v. ROP, 2018 Palau 2 ¶ 4 (App. Div.).

§ 3106. Use of a computer in the commission of a separate crime.

(a) A person commits the offense of use of a computer in the commission of a separate crime if the person:

(1) intentionally uses a computer to obtain control over the property of the victim to commit theft in the first or second degree; or

(2) knowingly uses a computer to identify, select, solicit, persuade, coerce, entice, induce, or procure the victim or intended victim of the following offenses:

(A) 21 PNC Section 804, relating to custodial interference in the first degree;

(B) 21 PNC Section 805, relating to custodial interference in the second degree;

(C) 17 PNC Section 1604, relating to sexual assault in the second degree;

(D) 17 PNC Section 1605, relating to sexual assault in the third degree;

(E) 17 PNC Section 1606, relating to sexual assault in the fourth degree;

(F) 17 PNC Section 1803, relating to promoting child exploitation in the second degree; or

(G) 17 PNC Section 4905, relating to promoting pornography for minors.

(b) Use of a computer in the commission of a separate crime is an offense one class or grade, as the case may be, greater than the offense facilitated. Notwithstanding any other law to the contrary, a conviction under this section shall not merge with a conviction for the separate crime.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3106 and RPPL 9-21 § 5 [Chapter 31 § 3105], modified, adds section.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3107. Forfeiture of property used in computer crimes.

Any property used or intended for use in the commission of, attempt to commit, or conspiracy to commit an offense under this chapter, or which facilitated or assisted such activity, shall be forfeited subject to the requirements of 17 PNC Chapter 7 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 31 § 3106], modified, and § 3 repeals former § 3107.

§ 3108. Jurisdiction.

For purposes of prosecution under this chapter, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in each jurisdiction.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3108 and RPPL 9-21 § 5 [Chapter 31 § 3107], modified, adds section.

§ 3109. Unauthorized computer access in the first degree.

(a) A person commits the offense of unauthorized computer access in the first degree if the person knowingly accesses a computer, computer system, or computer network without authorization and thereby obtains information, and:

(1) the offense was committed for the purpose of commercial or private financial gain;

(2) the offense was committed in furtherance of any other crime;

(3) the value of the information obtained exceeds five thousand dollars ($5,000); or

(4) the information has been determined by statute or rule of court to require protection against unauthorized disclosure.

(b) Unauthorized computer access in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3109 and RPPL 9-21 § 5 [Chapter 31 § 3108], modified, adds section.

§ 3110. Unauthorized computer access in the second degree.

(a) A person commits the offense of unauthorized computer access in the second degree if the person knowingly accesses a computer, computer system, or computer network without authorization and thereby obtains information.

(b) Unauthorized computer access in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3110 and RPPL 9-21 § 5 [Chapter 31 § 3109], modified, adds section.

§ 3111. Unauthorized computer access in the third degree.

(a) A person commits the offense of unauthorized computer access in the third degree if the person knowingly accesses a computer, computer system, or computer network without authorization.

(b) Unauthorized computer access in the third degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3111 and RPPL 9-21 § 5 [Chapter 31 § 3110], modified, adds section.

Chapter 32 — Credit Card Offenses

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 32 read §§ 3200–3207, which has been renumbered to §§ 3201–3208 to conform with the Style of the Code.

In RPPL 9-21 Chapter 32, there are several references to "this part" even though RPPL 9-21 does not have parts under Chapter 32. RPPL 9-21 references to "part" have therefore been changed to "chapter" to conform with the Style of the Code.

Former Chapter 32 of Title 17 of the Palau National Code entitled Executive Clemency is renumbered as Chapter 4 of Title 17 of the Palau National Code by RPPL 9-21 § 4(b).

§ 3201. Fraudulent use of a credit card.

(a) A person commits the offense of fraudulent use of a credit card, if with intent to defraud the issuer, or another person or organization providing money, goods, services, or anything else of value, or any other person, the person:

(1) uses or attempts or conspires to use, for the purpose of obtaining money, goods, services, or anything else of value a credit card obtained or retained in violation of 17 PNC Section 3204 or a credit card that the person knows is forged, expired, or revoked;

(2) obtains or attempts or conspires to obtain money, goods, services, or anything else of value by representing without the consent of the cardholder that the person is the holder of a specified card or by representing that the person is the holder of a card and such card has not in fact been issued; or

(3) uses or attempts or conspires to use a credit card number without the consent of the cardholder for the purpose of obtaining money, goods, services, or anything else of value.

(b) Fraudulent use of a credit card is a class C felony if the value of all money, goods, services, and other things of value obtained or attempted to be obtained exceeds three hundred dollars ($300) in any six-month period. For purposes of this section, each separate use of a credit card that exceeds three hundred dollars ($300) constitutes a separate offense.

(c) Fraudulent use of a credit card is a misdemeanor, if the value of all money, goods, services, and other things of value obtained or attempted to be obtained does not exceed three hundred dollars ($300) in any six-month period.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 32 § 3200], modified.
RPPL 9-48 § 5, modified, amends section.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

Supreme Court Cases
ROP v. Diaz, 21 ROP 105, 106 (Tr. Div. 2013).
Llecholch v. ROP, 21 ROP 70, 71, 78 (2014).

§ 3202. Fraudulent encoding of a credit card.

(a) A person commits the offense of fraudulent encoding of a credit card if, with the intent to defraud the issuer, or another person or organization providing money, goods, services or anything else of value, the person:

(1) intentionally changes, alters, erases, adds, creates, tampers with, or manipulates a credit card number by encoding credit card numbers onto the magnetic strip of the credit card;

(2) knowingly uses, utters, or offers a credit card with changed, altered, erased, added, tampered with, or manipulated magnetically or electronically encoded credit numbers on the magnetic strip of a credit card for the purpose of obtaining money, goods, services, or anything else of value; or

(3) knowingly sells, or distributes any credit card with changed, altered, erased, added, tampered with, or manipulated magnetically or electronically encoded credit card numbers on the magnetic strip of the credit card.

(b) Fraudulent encoding of a credit card is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 32 § 3201], modified.

§ 3203. Making a false statement to procure issuance of a credit card.

(a) A person commits the offense of making a false statement to procure issuance of a credit card if the person makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting the person's identity or that of any other person, firm, or corporation, for the purpose of procuring the issuance of a credit card.

(b) Making a false statement to procure issuance of a credit card is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 32 § 3202], modified.

§ 3204. Theft, forgery, etc., of credit cards.

(a) A person who takes a credit card from the person, possession, custody, or control of another without the cardholder's consent or who, with knowledge that it has been so taken, receives the credit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder commits the offense of credit card theft. If a person has in the person's possession or under the person's control credit cards issued in the names of two or more other persons, which have been taken or obtained in violation of this subsection, it is prima facie evidence that the person knew that the credit cards had been taken or obtained without the cardholder's consent.

(b) A person who receives a credit card that the person knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains

possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder commits the offense of credit card theft.

(c) A person, other than the issuer, who sells a credit card or a person who buys a credit card from a person other than the issuer commits the offense of credit card theft.

(d) A person who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, obtains control over a credit card as security for a debt commits the offense of credit card theft.

(e) A person, other than the issuer, who during any twelve-month period, receives credit cards issued in the names of two or more persons that the person has reason to know were taken or retained under circumstances that constitute credit card theft or a violation of 17 PNC Section 3203, commits the offense of credit card theft.

(f) A person who, with intent to defraud a purported issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, falsely makes or falsely embosses a purported credit card or utters such a credit card, or possesses such a credit card with knowledge that the same has been falsely made or falsely embossed commits the offense of credit card forgery. If a person other than the purported issuer possesses two or more credit cards that have been made or embossed in violation of this subsection, it is prima facie evidence that the person intended to defraud or that the person knew the credit cards had been so made or embossed. A person falsely makes a credit card when the person makes or draws, in whole or in part, a device or instrument that purports to be the credit card of a named issuer but that is not such a credit card because the issuer did not authorize the making or drawing, or alters a credit card that was validly issued. A person falsely embosses a credit card who, without authorization of the named issuer, completes a credit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder.

(g) A person other than the cardholder or a person authorized by the cardholder who, with intent to defraud the issuer, or a person or organization providing money, goods, services, or anything else of value, or any other person, signs a credit card, commits the offense of credit card forgery.

(h) Credit card theft is a class C felony.

(i) Credit card forgery is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 32 § 3203], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

Supreme Court Cases
ROP v. Diaz, 21 ROP 105, 106, 109 (Tr. Div. 2013).
Llecholch v. ROP, 21 ROP 70, 71, 74 (2014).

§ 3205. Credit card fraud by a provider of goods or services.

(a) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employees of such person, who, with intent to defraud the issuer or cardholder, furnishes money, goods, services, or anything else of value upon presentation of a credit card obtained or retained in violation of 17 PNC Section 3204 or a credit card that the person knows is forged, expired, or revoked commits the offense of credit card fraud by a provider of goods or services.

(b) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or the cardholder, fails to furnish money, goods, services, or anything else of value that the person represents in writing to the issuer that the person has furnished commits the offense of credit card fraud by a provider of goods or services.

(c) Credit card fraud by a provider of goods or services is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 32 § 3204], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

Supreme Court Cases
ROP v. Diaz, 21 ROP 105, 106, 109 (Tr. Div. 2013).
Llecholch v. ROP, 21 ROP 70, 71, 74 (2014).

§ 3206. Possession of unauthorized credit card machinery or incomplete cards.

(a) A person, other than the cardholder possessing an incomplete credit card, with intent to complete it without the consent of the issuer or a person possessing, with knowledge of its character, machinery, plates, or any other contrivance designed to reproduce instruments purporting to be the credit cards of the issuer who has not consented to the preparation of such credit cards, commits the offense of possession of unauthorized credit card machinery or incomplete cards.

A credit card is incomplete if part of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder, has not yet been stamped, embossed, imprinted, or written on it.

If a person, other than the cardholder or issuer, possesses two or more incomplete credit cards, it is prima facie evidence that the person intended to complete them without the consent of the owner.

(b) Possession of unauthorized credit card machinery or incomplete cards is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 32 § 3205], modified.

Supreme Court Cases
Llecholch v. ROP, 21 ROP 70, 71 (2014).

§ 3207. Credit card lists prohibited; penalty.

(a) It is unlawful for any person, business, corporation, partnership, or other agency to make available, lend, donate, or sell any list or portion of a list of any credit cardholders and their addresses and account numbers to any third party without the express written permission of the issuer and the cardholders; except that a credit card issuer may make a list of its cardholders, including names, addresses, and account numbers, available, without the permission of the cardholders, to a third party pursuant to a contract, if the contract contains language requiring the third party to bind through contract each of its subcontractors by including language prohibiting the divulging of any part of the list for any purpose by the subcontractors except to fulfill and service orders pursuant to the contract between the credit card issuer and the authorized third party.

Notwithstanding the provisions of this section, it is lawful for any corporation to make available, lend, donate, or sell any list or portion of a list of any credit cardholders and their addresses and account numbers to a subsidiary or the parent corporation of such corporation or to another subsidiary of the common parent corporation.

(b) Violation of this section is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 32 § 3206], modified.

§ 3208. Defenses not available.

In any prosecution for violation of this chapter, the prosecution is not required to establish and it is no defense:

(1) that a person other than the defendant who violated this chapter has not been convicted, apprehended, or identified; or

(2) that some of the acts constituting the offense did not occur in the Republic of Palau or were not a crime or element of a crime where they did occur.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 32 § 3207], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Chapter 33 — Money Laundering

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 33 read §§ 3300–3350, which has been renumbered to §§ 3301–3351 to conform with the Style of the Code.

In this chapter "Subchapters I to V" read "Parts I to V" in the original legislation and "part" was changed to "subchapter" to conform with the standard format used in the Code.

Former Chapter 33 of Title 17 of the Palau National Code entitled "Firearms Control Act" is renumbered as Chapter 45 of Title 17 of the Palau National Code by RPPL 9-21 § 4(c).

Subchapter I — Money Laundering

§ 3301. Definitions.

In this chapter, unless a different meaning plainly is required:

(1) "account" means any facility or arrangement by which a financial institution or designated non-financial business or profession accepts deposits of funds; allows withdrawals or transfers of funds; or pays negotiable or transferable instruments or orders drawn on, or collects negotiable or transferable instruments or payment orders on behalf of, any other person; and includes any facility or arrangement for a safety deposit box for any other form of safe deposit.

(2) "beneficial owner" means the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those natural persons who exercise ultimate effective control over a legal person or arrangement.

(3) "benefit" means any advantage, gain, profit, or payment of any kind that a person derives or obtains or that accrue to him, including those that another person derives, obtains or that otherwise accrue to such other person, if the other person is under the control of, or is directed or requested by, the first person.

(4) "business relationship" means a business, professional or commercial relationship which is connected with the professional activities of a financial institution or a designated non-financial business or profession and which is expected, at the time when the contact is established, to have an element of duration.

(5) "control" in relation to property means the exercise of practical control over the property whether or not that control is supported by any property interest or other legally enforceable power.

(6) "controlled" in relation to a legal person, group or entity includes any of the following:

(A) having the right to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person, group or entity;

(B) having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory

bodies of a legal person, group or entity who have held office during the present and previous financial year;

(C) controlling alone, pursuant to an agreement with other shareholders in or members of a legal person, group or entity, a majority of shareholders' or members' voting rights in that legal person, group or entity;

(D) having the right to exercise a dominant influence over a legal person, group or entity, pursuant to an agreement entered into with that legal person, group or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person, group or entity permits its being subject to such agreement or provision;

(E) having the power to exercise a dominant influence referred to in paragraph (D), without being the holder of that right;

(F) having the right to use all or part of the property of a legal person, group or entity;

(G) managing the business of a legal person, group or entity on a unified basis, while publishing consolidated accounts;

(H) sharing jointly and severally the financial liabilities of a legal person, group or entity, or guaranteeing them.

(7) "correspondent relationship" means the provision of banking, payment and other services by one financial institution ("the correspondent institution") to another financial institution ("the respondent institution") to enable the latter to provide services and products to its own customers.

(8) "currency" means a coin and paper money of Palau or of any foreign country that is designated as legal tender or customarily used and accepted as a medium of exchange.

(9) "customer" means any person for whom a transaction or account is arranged, opened or undertaken; who is a signatory to a transaction or account; to whom an account or right or obligation under a transaction has been assigned or transferred; who is authorized to conduct a transaction or control an account; who attempts to take any of the actions set out under this definition; and any person as may be prescribed by regulation as set forth by the Financial Intelligence Unit.

(10) "designated non-financial business or profession" means any of the following:

(A) casinos, including internet casinos and other businesses engaged in operating online games involving gambling;

(B) real estate agents, and any person involved in the transfer of real property in the regular course of business;

(C) dealers in precious metals and precious stones, including, but not limited to, gold, silver, platinum bullion, rare coins, diamonds, emeralds, rubies or sapphires;

(D) lawyers and other independent legal professionals when they prepare for, engage in, or carry out transactions for a client concerning the buying or selling of real estate; managing of client money, securities or other property; management of a bank, savings, or securities accounts; organization of contributions for the creation, operation, or management of legal persons;

creation, operation or management of legal persons or arrangements, and buying and selling of business entities;

(E) trust and company service providers not otherwise covered by this law which, as a business, prepare for or carry out transactions on behalf of customers in relation to any of the following services to third parties: acting as formation, registration or management agent of legal persons; acting as, or arranging for another person to act as, a director or secretary of a company or a partner of a partnership, or to hold a similar position in relation to other legal persons; providing a registered office, business address or accommodation, correspondence of administrative address for a company, a partnership of any other legal person or arrangement; acting as, or arranging for another to act as a trustee of an express trust or other similar arrangement; acting as or arranging for another person to act as a nominee, shareholder for another person; and

(F) other such companies, institutions, and persons as may be prescribed by regulation as set forth by the Financial Intelligence Unit.

(11) "Director" means the Director of the Financial Intelligence Unit.

(12) "financial institution" means any bank or banking association, commercial bank or trust company, any private bank, industrial savings bank, savings or thrift institution, savings and loan association, building and loan association, credit union, agency, agent or branch of a foreign bank, currency dealer or exchange, business engaged primarily in the cashing of checks, person engaged in the issuing, selling or redeeming of traveler's checks, money orders or similar instruments, any broker or dealer in securities, licensed transmitters of funds or other person regularly engaged in transmitting funds to a foreign nation for others, any investment banker or investment company, any insurer, any pawnbroker, any telegraph company, any person regularly engaged in the delivery, transmittal, or holding of mail or packages, vehicle, vessel, or aircraft, any personal property broker, any person or business acting as a real property securities dealer, and any natural or legal person that conducts as a business any of the following activities:

(A) acceptance of deposits and other repayable funds from the public, including private banking;

(B) lending, including but not limited to, consumer credit, mortgage credit, factoring, and financing of commercial transactions, including forfeiting;

(C) financial leasing other than with respect to arrangements relating to consumer products;

(D) the transfer of money or value;

(E) issuing and managing means of payment, including but not limited to credit and debit cards, traveler's checks, money orders and bankers' drafts, and electronic money;

(F) issuing financial guarantees and commitments;

(G) trading in money market instruments, including but not limited to checks, bills, certificates of deposit and derivatives; foreign exchange; exchange, interest rate and index instruments; transferable securities; and commodity futures;

(H) participation in securities issues and the provision of financial services related to such issues; individual and collective portfolio management;

(I) safekeeping and administration of cash or liquid securities on behalf of other persons;

(J) investing, administering of cash or liquid securities on behalf of other persons;

(K) underwriting and placement of life insurance and other investment related insurances; and

(L) money and currency changing;

(M) any other activity as prescribed by regulation as set forth by the Financial Intelligence Unit.

(13) "freezing" in relation to property or funds means prohibiting any moving, transfer, conversion, disposition, alteration, use of, dealing with or movement of property or funds in any way that would result in any change in its volume, amount, location, ownership, possession, character, destination or any other change that would enable the use of the property or funds, including for portfolio management, or to obtain goods, property or funds, or services in any way, including but not limited to, selling, hiring or mortgaging them.

(14) "money laundering" means the offense as defined in 17 PNC Section 3302.

(15) "originator" means the account holder, or [where] there is no account, the person that places the order with a financial institution to perform a wire transfer.

(16) "person" means any natural or legal person.

(17) "politically exposed person" means any person who is or has been entrusted with prominent public functions in Palau or in a foreign country, for example Head of State or of government, a senior politician, a senior government, judicial or military official, and any person who is or has been a senior executive of a national or state owned company or a senior political party official. This definition is deemed to include categories of family members and business associates as set forth in regulations promulgated by the Financial Intelligence Unit.

(18) "proceeds of Crime" or "proceeds" means any property or economic advantage derived from or obtained, directly or indirectly, wholly or partially, through the commission of an offense, including economic gains from the property and property converted or transformed, in full or in part, into other property.

(19) "property" or "funds" means asset of every kind, whether tangible or intangible, corporeal or incorporeal, moveable or immoveable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to currency, bank credits, deposits and other financial resources, travelers checks, bank checks, money orders, shares, securities, bonds, drafts and letters of credit, whether situated in Palau or elsewhere, and any interest, dividends, or other income on or value accruing from or generated by such assets.

(20) "transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, or the arrangement thereof, and includes but is not limited to opening of an account; any deposit, withdrawal, exchange or transfer of funds in any currency

whether in cash or by check, payment order, or other instrument or by electronic or other non-physical means; the use of a safe deposit box or any other form of safe deposit; entering into any fiduciary relationship; any payment made or received in satisfaction, in whole or in part, of any contractual or other legal obligation; any payment made in respect of a lottery, bet or other game of chance; establishing or creating a legal person or legal arrangement; and any such other transaction as may be prescribed by regulation.

(21) "transfer" means any transaction carried out on behalf of an originator through a financial institution by electronic means with a view to making an amount of money available to a beneficiary at another financial institution. The originator and beneficiary may be the same person.

(22) "United Nations Sanctions Committee" means the Committees of the Security Council of the United Nations established by Security Council Resolution 1267 (1999) of October 15, 1999 and Security Council Resolution 1988 (2011).

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3300], modified.

Notes
In paragraph (15), the bracketed [where] replaced the word "wether" in the original legislation per Code Commission.

The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 3302. Money laundering.

(a) Any person commits the offense of money laundering who knowing, suspecting or having reasonable grounds to suspect that property is the proceeds of crime,

(1) acquires, possesses or uses such property;

(2) conceals or disguises the true nature, source, location, disposition, movement, ownership or any rights with respect to such property;

(3) converts, transfers or engages in a transaction of such property; or

(4) enters into or becomes concerned in an arrangement with the intention to facilitate, by whatever means, the acquisition, retention, use or control of such property.

(b) Money laundering is a Class A felony.

(c) Notwithstanding 17 PNC Section 651, any person convicted of an offense under this chapter shall be subject to a maximum fine of twice the amount laundered, twice the value of the benefit derived by the commission of the offense, or five hundred thousand dollars ($500,000), whichever is greater.

(d) In assessing the value of the benefit derived by a defendant from the commission of an offense, the court may treat as property of the defendant any property that the court finds is subject to the effective control of the defendant, whether or not the defendant has any legal or equitable interest in the property, or any right, power or privilege in connection with the property. The court may take into consideration, inter alia, shareholdings in, debentures over, or directorships

in any company, corporation or commercial enterprise that has an interest, whether direct or indirect, in the property, and any trust that has any relationship to the property.

(e) Any element of the offense of money laundering that occurs outside the national territory of the Republic of Palau may be utilized to prove the offense of money laundering, and a predicate offense may include actions committed outside the national territory of the Republic of Palau, if such actions would have constituted an offense in the Republic of Palau.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3301], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3303. Court authority to restrict business.

Pursuant to 17 PNC Section 619, when a high managerial agent as defined by 17 PNC Section 230 is convicted of money laundering, the court may:

(1) terminate a person's business that is connected to the commission of the offense;

(2) impose a temporary or permanent prohibition to directly or indirectly engage in the certain types of businesses connected with the commission of the offense;

(3) impose a temporary or permanent prohibition of the use of premises connected with the commission of the offense;

(4) place such person under supervision pursuant to the conditions prescribed by the court.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3302], modified.

Notes
The Code Commission has made technical changes to the designations and cross-references within this section to conform to the Style of the Code.

§ 3304. Increased penalties.

The penalties imposed under 17 PNC Section 3302 may be increased by one third in the following cases:

(1) if the offense underlying the money laundering offense carries a penalty of deprivation of liberty for a term exceeding two times that specified for the money laundering offense;

(2) if the money laundering offense is perpetrated in the pursuit of a trade or occupation;

(3) if the money laundering offense is perpetrated as part of the activities of an organized criminal group;

(4) if the amount of property laundered exceeds one million dollars ($1,000,000).

(5) if the purpose of the commission of the money laundering offense is to make profit;

(6) if the purpose of the commission of the money laundering offense is to promote further criminal activity or to conceal the true nature or origin of illicit funds.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3303], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 3305. Decreased penalties.

The penalties imposed under 17 PNC Section 3302 may be reduced by one third if the perpetrator of the money laundering offense provides law enforcement officers with information they would not have otherwise obtained so as to assist them in:

(1) preventing or limiting the effects of the money laundering offense;

(2) identifying or prosecuting other perpetrators of the money laundering offense;

(3) obtaining evidence;

(4) preventing the commission of other money laundering offenses; or

(5) depriving organized criminal groups of property over which the defendant has no interest or control.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3304], modified**.**
RPPL 9-48 § 6, modified, amends section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 3306. Forfeiture.

Any property offered, conferred, agreed to be conferred, or accepted as a benefit, pecuniary benefit, or compensation in the commission of money laundering is forfeited to the Republic of Palau, subject to the requirements of 17 PNC Chapter 7 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3305], modified.

Supreme Court Cases
ROP v. Suzuky, 22 ROP 202, 204, 205, 206 (Tr. Div. 2014).

Subchapter II — Preventive Measures and Monitoring

§ 3311. Anonymous accounts.

Financial institutions and designated non-financial business and professions are not permitted to establish or maintain anonymous accounts or accounts in fictitious names.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3310], modified.

§ 3312. Customer due diligence.

(a) Financial institutions and designated non-financial business and professions shall apply customer due diligence measures.

(b) In relation to cross border correspondent relationships, in addition to performing due diligence measures under subsection (a), financial institutions and designated non-financial business and professions shall gather information about the institution’s business, its reputation, and the nature and quality of the supervision to which it is subject, before establishing a new correspondent relationship, and conduct an assessment of the quality of Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) controls applicable to the foreign respondent institution’s and designated non-financial business and professions' business.

(c) The respective Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) responsibilities of each financial institution and designated non-financial business and profession shall be documented.

(d) The Financial Intelligence Unit shall promulgate rules and regulations in furtherance of this section.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3311], modified.

§ 3313. Measures to identify politically exposed persons.

Financial institutions and designated non-financial business and professions shall have in place measures to identify politically exposed persons and other customers who may pose a high risk of money laundering or financing of terrorism and to manage the risk associated with such persons as prescribed by regulations set forth by the Financial Intelligence Unit.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3312], modified.

§ 3314. Complex patterns in transactions.

(a) Financial institutions and designated non-financial business and professions shall pay special attention to all complex, unusual large transactions or unusual patterns of transactions, which

have no apparent or visible economic or lawful purpose, and to business relationships and transactions with persons, including legal persons and other financial businesses, from or in countries which do not sufficiently apply the Financial Action Task Force (FATF) Recommendations.

(b) Financial institutions and designated non-financial business and professions will be advised of concerns about weaknesses in the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) controls of other countries by the Financial Intelligence Unit.

(c) Financial institutions and designated non-financial business and professions shall set forth in writing the specific information regarding transactions described in this section, including the identity of all of the parties involved, the origin and destination of the funds, and the purpose of the transaction. The report shall be maintained by the financial institution or designated non-financial business and profession and a suspicious transaction report or reports shall be filed immediately with the Financial Intelligence Unit.

(d) The measures under this section shall be in accordance with the requirements prescribed by regulation set forth by the Financial Intelligence Unit.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3313], modified.

§ 3315. Third party due diligence.

(a) Financial institutions and designated non-financial business and professions may rely on an intermediary or third party to perform some of the elements of the customer due diligence measures under 17 PNC Section 3312 or to introduce business.

(b) The ultimate responsibility for customer identification and verification shall remain with the financial institution and designated non-financial business and professions relying on the third party.

(c) The Financial Intelligence Unit shall promulgate regulations in regards to this section.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3314], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3316. Misuse of information technology.

(a) Financial institutions and designated non-financial business and professions shall have in place measures to prevent the misuse of information technology in the commission of an offense and to address any specific risks associated with the conducting of business relationships or executing transactions for clients that are not physically present.

(b) The measures under this section shall be in accordance with the requirements prescribed by regulation set forth by the Financial Intelligence Unit.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3315], modified.

§ 3317. Physical presence of financial institutions.

(a) No bank may be established in the Republic of Palau if it maintains no physical presence within Palau and is not affiliated with a regulated financial group subject to effective consolidated supervision.

(b) Financial institutions and designated non-financial business and professions shall not enter into or continue business relations with banks in jurisdictions where they are not physically present and are not affiliated with a regulated financial group subject to effective consolidated supervision.

(c) Financial institutions and designated non-financial business and professions shall not enter into or continue business relations with a financial business in a foreign country that permits its accounts to be used by banks that are registered in jurisdictions where they are not physically present and are not affiliated with a regulated financial group subject to effective consolidated supervision.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3316], modified.

§ 3318. Wire transfers.

(a) Financial institutions and designated non-financial business and professions whose activities include wire transfers shall obtain and verify the information and maintain, manage and transmit the information as prescribed by regulation set forth by the Financial Intelligence Unit.

(b) If the financial institution or designated non-financial business and profession referred to in subsection (a) receives a wire transfer that does not contain the complete originator information, it shall take reasonable measures to obtain and verify the missing information from the ordering institution or the beneficiary.

(c) In the case that the missing information cannot be obtained, the transfer shall be refused and a suspicious transaction report shall be filed with the Financial Intelligence Unit.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3317], modified.

§ 3319. Penalties.

(a) Any person who intentionally or by criminal negligence violates or fails to comply with or to act in accordance with the provisions of Subchapter II of this chapter, or any regulation implemented by the Financial Intelligence Unit in furtherance thereof, shall be guilty of a Class C felony or a maximum fine of ten thousand dollars ($10,000), or both.

(b) In addition to the penalties provided for under subsection (a), any person found guilty of an offense under subsection (a) may also be banned permanently or temporarily from pursuing the business or profession which provided opportunity for the offense to be committed.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3318], modified.

Notes
"Subchapter II" in subsection (a) replaced the words "Part II" in the original legislation per Code Commission.

Subchapter III — Transaction Reporting and Record Keeping

§ 3321. Reporting of suspected terrorism.

(a) Financial institutions and designated non-financial business and professions and their respective directors, principals, officers, partners, professionals and employees that suspect or have reasonable grounds to suspect that a transaction involves property that is the proceeds of crime; that is related or linked to or is to be used for a terrorism offense or a terrorist act, by a terrorist, or terrorist organization, or by those who finance terrorism as such terms are defined in 17 PNC Chapter 22, shall submit a report to the Financial Intelligence Unit setting forth this suspicion.

(b) The obligation under subsection (a) also applies to attempted transactions.

(c) A transaction under subsection (a) shall not be carried out until ten (10) business days after a report has been submitted to the Financial Intelligence Unit in relation to such a transaction, unless refraining from the carrying out of the transaction is impossible or likely to frustrate the efforts to investigate the transaction, in which case the transaction may be executed and the suspicion must be reported immediately thereafter.

(d) Reports under this section shall be in accordance with the form prescribed by and contain the information set out in the rules and regulations promulgated by the Financial Intelligence Unit.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3320], modified.

§ 3322. Reporting of transactions.

(a) Financial institutions and designated non-financial business and professions shall submit a report to the Financial Intelligence Unit for any currency transaction in an amount above ten thousand dollars ($10,000) whether conducted as a single transaction or several transactions that appear to be linked. The Financial Intelligence Unit shall issue rules on the procedures for and form in which the reports shall be submitted and shall publish guidance to assist financial institutions to fulfill their obligations under this chapter. Reports shall be made without delay and at least within the timeframe set forth in the rules issued.

(b) Financial institutions and designated non-financial business and professions shall submit a report to the Financial Intelligence Unit for any request by a person to conduct a transaction to create a legal person, legal entity, or other legal arrangement; to manage a legal person, legal entity, or other legal arrangement; or to utilize a legal person, legal entity, or other legal arrangement to conduct a transaction described in subsection (a), if the person making the request fails to provide the necessary information to allow the financial institution or designated non-financial business and profession to comply with Sections 3311, 3312, 3313, 3315, or 3317 of this chapter, or if the request implicates Section 3314.

(c) No financial institution or designated non-financial business and profession, including employees and agents of such financial institutions and designated non-financial business and professions shall disclose to any customer or third party that a report or any other information will be, is being or has been submitted to the Financial Intelligence Unit in accordance with

the provisions of this chapter, or that a money laundering or financing of terrorism investigation is being or has been carried out.

(d) Subsection (c) does not apply in relation to disclosures or communications between and among directors, officers and employees of the financial institutions; or in the case of a lawyer or other independent legal professional when seeking to dissuade a client from engaging in illegal activity.

(e) Except for the purpose of the due administration of this Law, no person shall disclose any information that will identify or is likely to identify the person who prepared or made a report made in accordance with the provisions of this chapter, or handled the underlying transaction.

(f) No person shall be required to disclose a report made in accordance with the provisions of this chapter or any information contained in such a report or provided in connection with it, or the identity of the person preparing or making such report or handling the underlying transaction in any judicial proceeding unless the judge is satisfied that the disclosure of the information is necessary in the interests of justice.

(g) No criminal, civil, disciplinary or administrative proceeding for breach of banking or professional secrecy or contract may be instituted against a financial institution, or its respective directors, principals, officers, partners, professionals or employees who in good faith submit a report or provide information in accordance with the provisions of this section.

(h) No criminal action for money laundering or financing of terrorism shall be brought against a financial institution [or] designated non-financial business [or] professions, or its directors, officers or employees in connection with an action undertaken in good faith to execute a transaction if a report was made in good faith and in a timely manner.

(i) Lawyers and other independent legal professionals have no obligation to report information required to be reported by this section that they receive or obtain from a client in the course of developing a legal position for a client, or performing the task of defending a client or representing a client in, or concerning a judicial proceeding, including rendering advice on how to avoid such judicial proceedings, regardless of whether such information is received or obtained before, during, or after such judicial proceedings. The reporting required of lawyers and other legal professionals by this division is hereby deemed to be in accordance with American Bar Association Rule of Professional Conduct No. 1.6(b)(2) and (3) as a permissible disclosure to prevent, mitigate, or rectify a crime, fraud, or substantial injury to the financial interests or property of another that is reasonably certain to occur, or that has occurred, and in furtherance of which the lawyer's legal services have been utilized by the client.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3321], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

In subsection (h) the bracketed [or] replaced the word “and” in the original legislation per Code Commission.

§ 3323. Structuring.

Any person who carries out two or more transactions below the threshold set out in 17 PNC Section 3322 so as to ensure or attempting to ensure that no report in accordance with this section is made commits the offense of structuring and shall be guilty of a class C felony or a maximum fine of ten thousand dollars ($10,000), or both.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3322], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3324. Foreign branches.

(a) Financial institutions shall require their foreign branches and majority owned subsidiaries to implement the requirements under this Law and any regulations issued in execution of this Law to the extent that local applicable laws and regulations so permit.

(b) If the law of the country where the majority owned subsidiary or branch is situated prohibits compliance with any of these obligations, the financial institution in Palau shall so advise its competent supervisory authority.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3323], modified.

§ 3325. Internal monitoring.

Financial institutions shall develop and implement internal policies, procedures and programs for the prevention of money laundering and financing of terrorism and the proper implementation of the provisions of this Law. Such policies, procedures and programs shall include, amongst others:

(1) customer identification and verification of identity measures, including identification and verification of beneficial owners, ongoing due diligence and anti-money laundering and countering financing of terrorism risk management procedures, to successfully comply with the requirements under this Law and any regulation issued in execution of this Law;

(2) procedures to ensure compliance with the property freezing obligations under 17 PNC Chapter 33, Subchapter V.

(3) appropriate compliance management arrangements and adequate screening procedures to ensure high standards when hiring employees;

(4) ongoing training for officials and employees including training to assist them in recognizing transactions and actions that may be linked to money laundering or financing of terrorism; and

(5) internal audit arrangements to check conformity, compliance with and effectiveness of the measures taken in execution of this Law.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3324], modified.

Notes
In paragraph (2) "Subchapter V" replaced the word "Part V" in the original legislation per Code Commission.

The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 3326. Bookkeeping.

(a) Financial institutions and designated non-financial business and professions shall maintain all books and records with respect to their customers and transactions as set forth in subsection (b) and shall ensure that such records and the underlying information are available on a timely basis to the Financial Intelligence Unit, the Financial Institution Commission and other competent authorities.

(b) The books and records referenced in subsection (a) shall include, at a minimum:

(1) account files, business correspondence, and copies of documents evidencing the identities of customers and beneficial owners obtained in accordance with the provisions in this Law, which shall be maintained for not less than five years after the business relationship has ended;

(2) records on transactions sufficient to reconstruct each individual transaction for both account holders and non-account holders, which shall be maintained for not less than five years from the date of the transaction;

(3) copies of all suspicious transaction reports made pursuant to 17 PNC Section 3321 or 3322, including any accompanying documentation, which shall be maintained for at least five years from the date the report was made to the Financial Intelligence Unit.

(4) a written record of findings with respect to the transactions referenced in 17 PNC Section 3314, which shall be maintained for not less than five years from the date of the transaction.

(c) This section shall not apply to lawyers and other legal professionals, except for subsection (b)(3) and (4) and the appropriate record keeping sufficient to provide proof to the Financial Intelligence Unit of compliance with the Preventive Measures and Monitoring required by Subchapter II of this division.

(d) Where it is necessary and reasonable for the execution of this Law, the Financial Intelligence Unit shall have the power to extend the record retention period set out in subsection (b) in relation to a specific customer or transaction.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3325], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

In subsection (c) "Subchapter II" replaced the word "Part II" in the original legislation per Code Commission.

§ 3327. Penalties.

(a) Any person who intentionally or by criminal negligence fails to comply with Subchapter III of Chapter 33 of 17 PNC shall be guilty of a Class C felony or a maximum fine of ten thousand dollars ($10,000), or both.

(b) In addition to the sanctions provided for under subsection (a), any person found guilty of an offense under subsection (a) may also be banned permanently or temporarily from pursuing the business or profession which provided opportunity for the offense to be committed.

(c) In addition to the penalties provided for under subsections (a) and (b), a financial institution or designated non-financial business and profession that intentionally or by criminal negligence fails to comply with the obligations under this chapter or any regulation issued in execution of this chapter may be subject to the measures and sanctions provided for under 17 PNC Section 3329.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3326], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

In subsection (a) "Subchapter III" replaced the word "Part III" in the original legislation per Code Commission.

§ 3328. Supervising authorities.

(a) The following authorities shall have the powers and duties to monitor and supervise compliance by financial institutions and designated non-financial business and professions with the provisions of this Law and any regulation issued on the basis thereof:

(1) the Financial Institutions Commission;

(2) the Financial Intelligence Unit;

(3) any authority designated by way of regulation.

(b) To properly carry out their supervisory mandate, the authorities listed in subsection (a) shall have the following duties and powers:

(1) to regulate, monitor and supervise financial institutions and designated non-financial business and professions for compliance with the provisions of this Law and any regulation issued in execution of this Law, including through regular on-site examinations, based on and in accordance with the perceived risk of money laundering and financing of terrorism;

(2) to issue instructions, guidelines and recommendations to assist financial institutions and designated non-financial business and professions to comply with their obligations under the provisions of this Law and any regulation issued in execution of this Law;

(3) to establish and apply fit and proper criteria for owning, controlling, or participating, directly or indirectly, in the directorship, management or operation of financial institutions;

(4) to provide information and assistance to competent authorities in investigating, prosecuting or conducting proceedings relating to any offense;

(5) to apprise the Financial Intelligence Unit whenever it appears that a financial institution or designated non-financial business and profession or any of their respective directors, officers or employees, is not complying or has not complied with the obligations set out in this Law or any regulation issued in execution of this Law;

(6) to report promptly to the Financial Intelligence Unit any information concerning suspicious transactions or facts that could be related to money laundering or financing of terrorism, or to the implementation of the obligations under Subchapter III of this chapter;

(7) to enter into cooperation and information sharing arrangements with other competent domestic authorities and to provide prompt and effective cooperation to such competent authorities, including in the absence of a cooperation and information sharing arrangement;

(8) to ensure that financial institutions and designated non-financial business and professions of the Republic of Palau apply and enforce measures consistent with the provisions of this Law and any Implementing Regulations issued in accordance with this Law to their foreign branches and majority-owned subsidiaries, to the extent permitted by local laws and regulations;

(9) to compel the production or obtain access to all documents, records and information relevant to monitor and supervise compliance with the provisions of this Law and any regulation issued in execution of this Law by financial institutions;

(10) to enter into cooperation and information sharing arrangements and to provide prompt and effective cooperation to agencies that perform similar functions in other nations, including in the absence of a cooperation and information sharing arrangement; and

(11) to maintain statistics concerning measures adopted and sanctions imposed by it in enforcing the provisions of this Law and any Implementing Regulation issued in execution of this Law.

(12) The duties and powers set out in paragraphs (1) to (10) may be further described by regulation.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3327], modified.

Notes
In subsection (b)(6) "Subchapter III" replaced the word "Part III" in the original legislation per Code Commission. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 3329. Administrative violation.

A supervisory authority that discovers an administrative violation by a financial institution it supervises of the obligations established under this Chapter 33 of 17 PNC or any regulation issued in execution of the provisions of this chapter, may impose one or more of the following measures and sanctions:

(1) written warnings;

(2) order to comply with specific instructions;

(3) order to submit regular reports on the measures the financial institution is taking to remedy the administrative violation;

(4) issue a fine as provided for in regulations promulgated pursuant to this chapter.

(5) replace or restrict the power of managers, directors or controlling owners and appoint an ad hoc administrator, if necessary;

(6) impose conservatorship or suspend, restrict or withdraw the license and prohibit the continuation of the business of the financial institution;

(7) publish information on the measures taken pursuant to paragraphs (1) to (6); or

(8) take any other measures that may be provided for through regulation as set forth by the Financial Intelligence Unit.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3328], modified.

Notes
The Code Commission has made technical changes to the designations and cross-references within this section to conform to the Style of the Code.

Subchapter IV — The Financial Intelligence Unit

§ 3331. Financial Intelligence Unit.

(a) The Financial Intelligence Unit established by the Money Laundering and Proceeds of Crime Act 2001 shall continue to be established as if established by this Act.

(b) The Financial Intelligence Unit shall be an independent agency responsible for receiving, analyzing, investigating and disseminating information concerning suspected proceeds of crime and terrorist property, as provided for under this Law.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3330], modified.

§ 3332. Director.

The Director of the Financial Intelligence Unit shall be appointed by the Governing Board of the Financial Institutions Commission on such terms and conditions as the Board may determine in consultation with the Money Laundering Working Group (MLWG).

(1) The Director may exercise all of the functions, powers and duties of the Financial Intelligence Unit under this Act, and any regulations promulgated under the authority of the Money Laundering and Proceeds of Crime Act of 2001, such regulations shall remain in full force and effect as if promulgated under this Act.

(2) The Director shall report to the Governing Board of the Financial Institutions Commission on the exercise of his or her powers and the performance of his or her duties under this chapter.

(3) The Director may appoint such other officers and employees of the Financial Intelligence Unit as are necessary for the efficient exercise of the duties, functions and powers of the Financial Intelligence Unit.

(4) The Director may authorize any person subject to any terms and conditions that the Director may specify, to carry out any power, duty, or function conferred on the Director under this chapter.

(5) The Director shall ensure that an officer, employee or agent of the Financial Intelligence Unit received training or will receive training in the investigation of financial crimes, intelligence analysis and financial auditing as are necessary for the efficient exercise of the duties, functions and powers of the Financial Intelligence Unit.

(6) To assist with the creation, organization, training and operation of the Financial Intelligence Unit, the Director of the Financial Intelligence Unit may obtain technical assistance from foreign countries or international organizations, including but not limited to, the temporary employment of foreign law enforcement and intelligence consultants.

(7) The Director shall ensure that an officer, employee or consultant of the Financial Intelligence Unit, or any other person acting on behalf of the Financial Intelligence Unit, shall take an oath of confidentiality and shall receive credentials that identify that person has been authorized to act on behalf of the Financial Intelligence Unit.

(8) The Director may generally or particularly, delegate to any employee or agent of the Financial Intelligence Unit, as he or she thinks fit, all or any of the powers in the same manner and with the same effect as if they had been conferred to him or her directly by this chapter and not by delegation.

(A) Subject to any general or specific directions given or conditions attached by the Director, the employee or agent to whom those powers are delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him or her directly by this chapter and not by delegation.

(B) Until a delegation is revoked in writing, it continues in force according to its tenor and in the event of the Director ceasing to hold office, the delegation continues to have effect as if made by the person for the time being holding office as Director.

(C) Every delegation made under this section is revocable at will and no delegation prevents the exercise of any power by the Director.

(9) Any officer, employee or agent of the Financial Intelligence Unit may at any time be removed or suspended from office by the Director for disability affecting the performance of duty, neglect of duty, incompetence or misconduct proven to the satisfaction of the Director.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3331], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 3333. Candidates for director.

(a) The Director must not be:

(1) a member of Congress;

(2) a member of a local authority, except for the Bureau of Public Safety;

(3) a director, officer or employee of, or holds any shares in any financial institution or designated non-financial business and professions, or

(4) hold any other office or carry out any other professional activity without prior approval from the Governing Board of the Financial Institutions Commission.

(b) The Director may at any time be removed or suspended from office by the Governing Board of the Financial Institutions Commission for disability affecting the performance of duty, neglect of duty, incompetence or misconduct proven to the satisfaction of the Board.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3332], modified.

§ 3334. Powers, duties and obligations of Financial Intelligence Unit.

To properly implement its functions under this Law, the Financial Intelligence Unit shall have the following powers and duties:

(1) to receive information and reports in accordance with its functions and, in relation to any information or report it has received, to make inquiries with or obtain from any financial institution any additional information the Financial Intelligence Unit deems necessary to carry out its functions, regardless of whether the requested person has made a report. The information requested shall be provided within the time limits and the form specified by the Financial Intelligence Unit;

(2) to analyze and assess any report or information received in accordance with its functions;

(3) for transactions or attempted transactions that occurred prior to the entry into force of this Act, to require financial institutions and designated non-financial business and professions to disclose records in the financial institution’s or the designated non-financial business and profession's control, that pertain to the transaction or attempted transaction for a particular account for or by a particular person, and for a particular time period, if such disclosure would have been required to be reported under the provisions of this Act if it had been in effect during the particular time period in question;

(4) to enter the premises of any financial institution or designated non-financial business and profession during ordinary business hours to inspect any records kept pursuant to this Act and that are necessary to the fulfillment of the functions of the Financial Intelligence Unit, and to ask any questions and make enquiries relating to and make notes and take copies of such records;

(5) in relation to any report or information it has received in accordance with its functions, to obtain or collect any information it deems necessary to carry outs its function, whether or not publicly available, including commercially available databases or information and information stored in databases maintained by other government agencies that may hold relevant information such as Bureau of Revenue, Customs and Taxation, Bureau of Public Safety, Office of the Attorney General or other competent supervisory authorities;

(6) to act on behalf of the Republic of Palau in seeking information from any foreign government agency, foreign law enforcement agency, foreign supervisory authority and foreign auditing authority for purposes of this Law;

(7) to refer any report or information it has received in accordance with its functions to the appropriate law enforcement agency in the Republic of Palau if, on the basis of its analysis and assessment, the Financial Intelligence Unit has reasonable grounds to suspect that a transaction or attempted transaction involves proceeds of crime, or is related to or intended for financing of terrorism, or is terrorist property;

(8) to apprise the competent supervisory authority whenever it appears that a financial institution or designated non-financial business and profession, or any of its respective directors, officers or employees, is not complying or has not complied with the obligations under this Law or any regulation issued in execution of this Law;

(9) to destroy a suspicious transaction report received or collected on the expiry of six years after the date of receipt of the report if there has been no further activity or information relating to the report or the person named in the report, or six years from the date of the last activity relating to the person or report, whichever date is later;

(10) to instruct any financial institution or designated non-financial business and profession to take such steps as may be appropriate in relation to any information or report received by the Financial Intelligence Unit to enforce compliance with this Law or to facilitate any investigation anticipated by the Financial Intelligence Unit or a law enforcement agency;

(11) based on reasonable grounds to suspect that a transaction or attempted transaction involves proceeds of crime, or is related to or intended for financing of terrorism, or is terrorist property, to direct in writing that the financial institution or designated non-financial business and profession involved in the transaction either proceed or refrain from proceeding with the transaction or attempted transaction, for a period to be determined by the Financial Intelligence Unit.

(A) Any direction must not exceed five (5) working days if the direction is in writing.

(B) Any direction given orally must not exceed twenty four (24) hours and must be confirmed in writing within twenty four (24) hours of the oral direction.

(C) Before the expiration of five days of giving the direction, the Financial Intelligence Unit may apply to the Supreme Court for an order to extend the period of the direction.

(12) to issue guidelines to financial institutions and designated non-financial business and professions on the manner of transaction reporting under Subchapter III of this chapter, including specification of reporting forms, content of transaction reports and the procedures that should be followed when reporting transactions;

(13) to provide feedback to the financial institution, designated non-financial business or profession and any relevant government department, office, agency or institution regarding outcomes relating to the reports or information provided by it under the provisions of this Law;

(14) to provide training programs for financial institutions and designated non-financial business and professions in relation to reporting obligations, and the identification of suspicious transactions;

(15) to conduct research into and compile and provide information and statistics on trends and developments in the area of money laundering, the financing of terrorism, and ways to detect, prevent and deter such activities;

(16) to educate the public and create awareness on matters relating to money laundering and the financing of terrorism;

(17) to cooperate and share information with other domestic competent authorities;

(18) to assist competent authorities to investigate or prosecute any offense;

(19) to provide information to and assist competent authorities to apply seizing and confiscation measures pursuant to 17 PNC Chapter 7; or to freeze property under 17 PNC Chapter 33, Subchapter V;

(20) to advise financial institutions and designated non-financial business and professions of concerns about weaknesses in the anti-money laundering and countering financing of terrorism (AML/CFT) systems of other countries;

(21) to cooperate, share information and enter into agreements or arrangements with foreign government institution or agency, or any international organization, in accordance with 17 PNC Section 3335; and

(22) to report in writing to the Governing Board of the Financial Institutions Commission of the Republic of Palau prior to the end of each fiscal year on the activities of the Financial Intelligence Unit during the previous year and the expected activities of the Financial Intelligence Unit during the subsequent year, without disclosing confidential information or information that may jeopardize an ongoing investigation or prosecution.

(23) to promulgate any rules and regulations as may be necessary to give effect to the intent of Chapter 33 of this title of the Palau National Code; in addition, any regulations previously promulgated by the Financial Intelligence Unit under the authority of the Money Laundering and Proceeds of Crime Act of 2001 shall remain in full force and effect as if promulgated under the authority of this Act.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3333], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

In paragraph (12) "Subchapter III" replaced the word "Part III" and in paragraph (19) "Subchapter V" replaced the word "Part V" in the original legislation per Code Commission.

§ 3335. Disclosure.

(a) The Financial Intelligence Unit may disclose any report or information to a foreign government agency or institution, or an international organization, that performs similar functions and is subject to similar secrecy obligations as the Financial Intelligence Unit:

(1) on such terms and conditions as are set out in an agreement or arrangement between the Financial Intelligence Unit and the foreign government institution or agency, or international organization, regarding the exchange of such information; or

(2) where such an agreement or arrangement has not been entered into, on such terms and conditions as may be agreed upon by the Financial Intelligence Unit and the foreign institution, agency or organization at the time of disclosure.

(b) The Financial Intelligence Unit, with the approval of the Governing Board of the Financial Institutions Commission, may enter into a formal agreement or arrangement, in writing, with a foreign government institution or agency, or international organization, with powers and duties similar to the Financial Intelligence Unit regarding the exchange of information between the Financial Intelligence Unit and that institution, agency or organization.

(c) Agreements or arrangements entered into under subsection (a) or the terms and conditions under subsection (b) shall include a stipulation that:

(1) any information provided under this section shall be used by the foreign institution, agency or organization only for the purpose of combating money laundering, financing of terrorism or any other felony. Any other use shall require consent of the Palauan authority providing the information; and

(2) any information provided under this section may not be further disclosed or disseminated by the foreign institution, agency or organization to other authorities in the receiving State or elsewhere without the express consent of the Financial Intelligence Unit.

(d) A decision by the director of the Financial Intelligence Unit to analyze a matter or disseminate information under 17 PNC Section 3334 is not subject to review except by the Governing Board of the Financial Institutions Commission.

(e) Any person who has duties for or within the Financial Intelligence Unit is required to keep confidential any information obtained or matter disclosed to him or her within the scope of these duties, even after the cessation of those duties, except as otherwise provided by this Law or any regulation issued in execution thereof, or as ordered by the court. Such persons may only use such information for purposes provided for and in accordance with this Law.

(f) Any person or past employee of the Financial Intelligence Unit or other person who has duties for or within the Financial Intelligence Unit who willfully discloses information in contravention of subsection (e) shall be guilty of a Class C felony or a maximum fine of ten thousand dollars ($10,000), or both.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3334], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3336. Budget.

(a) The Financial Intelligence Unit shall be responsible for its own budget to be determined by the Director of the Financial Intelligence Unit.

(b) The Financial Intelligence Unit shall prepare for each new financial year an annual budget of revenue and expenditure which shall be submitted to the Olbiil Era Kelulau at least two months prior to the commencement of the financial year.

(c) The Financial Intelligence Unit is subject to examination and audit by the Office of the Public Auditor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3335], modified.

Subchapter V — Freezing of Property

§ 3341. Freezing of property.

(a) Any person shall freeze the property belonging to or wholly or jointly owned, held or controlled, directly or indirectly, by a person, group or entity designated by the United Nations Sanctions Committee, or belonging to or acting on behalf or at the direction of such a person, group or entity.

(b) Any person shall freeze the property belonging to or wholly or jointly owned, held or controlled, directly or indirectly, by any person, group or entity listed by the Attorney General under 17 PNC Section 3344, or any person, group or entity acting on behalf or at the direction of such person, group or entity listed under 17 PNC Section 3344.

(c) Freezing measures pursuant to subsections (a) and (b) shall be taken without delay and prior notice to the person, group or entity designated by a United Nations Sanctions Committee or listed by the Attorney General under 17 PNC Section 3344.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3340], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3342. Financial support of frozen assets.

(a) No person shall make property available, directly or indirectly, to or for the benefit of a person, group, or entity designated by a United Nations Sanctions Committee or listed by the Attorney General under 17 PNC Section 3344.

(b) Subject to 17 PNC Section 3349, no person shall provide financial services to a person, group or entity designated by a United Nations Sanctions Committee or listed by the Attorney General under 17 PNC Section 3344.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3341], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3343. Reporting.

(a) Within twenty-four (24) hours a person shall inform the Financial Intelligence Unit:
  (1) of any freezing measures they took pursuant to 17 PNC Section 3341;
  (2) that they know or suspect that a person with whom they have dealings with is a person, group or entity designated by a United Nations Sanctions Committee or listed by the Attorney General under 17 PNC Section 3344;

(b) When providing information to the Financial Intelligence Unit pursuant to subsection (a), a person shall:

(1) describe the status of the property;

(2) describe any actions taken with respect to the property;

(3) describe the nature and amount or quantity of the property frozen;

(4) provide any other information relevant to the property.

(c) A person shall cooperate with the Financial Intelligence Unit to verify the information provided under this section.

(d) The Financial Intelligence Unit shall provide any information received under subsection (a) to the competent law enforcement authority for further investigation.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3342], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3344. Listing of suspected terrorists.

(a) The Financial Intelligence Unit, either at its own initiative or at the request of the Financial Institutions Commission, Attorney General, Ministry of State, Ministry of Justice, Bureau of Revenue, Customs and Taxation, or the competent authority of a foreign State, shall determine the persons, groups and entities who commit or attempt to commit a terrorist act or participate in or facilitate the commission of a terrorist act, place the names of such persons, groups and entities on a list and, as appropriate, amend that list.

(b) A decision under subsection (a) to list a person, group or entity in accordance with this section shall be made based on the Attorney General's determination that there are reasonable grounds to suspect or believe that such person, group or entity commits or attempts to commit a terrorist act or participates in or facilitates the commission of a terrorist act, and may be issued irrespective of the existence of a criminal investigation or proceeding.

(c) A decision to list a person, group or entity under subsection (a) shall come into effect upon publication in the official gazette and such publication shall occur without delay. The decision may also come into effect in relation to any person who receives notice of the listing decision before such publication and upon the service of a copy of the decision to such person.

(d) The Attorney General shall forward a copy of any decision to the Financial Institutions Commission. The Financial Institutions Commission shall forward the list to all financial institutions and designated non-financial business and professions, the Land Court, Bureau of Revenue, Customs and Taxation, Registrar of Corporations, the Foreign Investment Board and to other supervisory authorities listed in subsection (a), and publish any decision on the Financial Institutions Commission's official website.

(e) The Attorney General may revoke its decision to list a person, group or entity under this section at any time, and in such case the de-listing and publication of the de-listing shall occur in the

same manner as the listing. The Attorney General shall review the list every year to ensure there are grounds for retaining the name of a person, group or entity on the list.

(f) The admission of a matter, collection of information or evidence, and listing procedures under this section shall be in accordance with the rules prescribed by the Attorney General.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3343], modified.

§ 3345. Publication of UN Sanctions Committee actions.

(a) The Financial Intelligence Unit shall make reasonable efforts to ensure that designations by a United Nations Sanctions Committee, and any amendments thereof are readily available to monitoring entities, other persons involved in monitoring, the Financial Institutions Commission, Land Court, Registrar of Corporations, Bureau of Revenue, Customs and Taxation and the Foreign Investment Board.

(b) The Attorney General shall undertake efforts to ensure that the designations by a United Nations Sanction Committee, and any amendments thereof are readily available to financial institutions and designated non-financial business and professions, the Land Court, Foreign Investment Board, Registrar of Corporations, Bureau of Revenue, Customs and Taxation and the Financial Institutions Commission.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3344], modified.

§ 3346. Application for de-listing.

(a) The Attorney General, either on its own initiative or upon application by an affected person, may determine that a freezing measure under this chapter does not apply because the person, group or entity in relation to whom the measure has been taken is not the person, group or entity designated by a United Nations Sanctions Committee or listed by the Attorney General under 17 PNC Section 3344.

(b) Any person, group or entity designated by a United Nations Sanctions Committee that is located in or a national or resident of Palau may submit an application for de-listing to the [Ministry of State] for forwarding to the focal point established within the United Nations Secretariat. A freezing measure under 17 PNC Section 3341 may be revoked by the Countering Financing of Terrorism Committee only based on a decision by the relevant Sanctions Committee.

(c) Any person listed by the Attorney General under 17 PNC Section 3344 may file a written application with the Attorney General to be removed from the list. Such proceedings shall be in accordance with the rules prescribed by the Attorney General.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3345], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

The bracketed [Ministry of State] in subsection (b) read "Ministry of Foreign Affairs" in the original legislation and was changed by the Code Commission as complying with likely intention of legislation.

§ 3347. Procedure to unfreeze property.

(a) The Attorney General may in the interest of justice direct that a specific freezing measure 17 PNC Section 3341 be lifted or altered.

(b) The Attorney General must lift a freezing measure if there is a request by a competent Palauan authority or any person, group or entity claiming to be affected by such measure, and it is established that 17 PNC Section 3341 does not apply with respect to the property subject to the measure.

(c) A direction by the Attorney General that the person freezing the property should lift or alter a specific freezing measure shall be published in the Government Gazette. Such proceedings shall be in accordance with the rules prescribed by the Attorney General.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3346], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3348. Notice.

(a) Where the Attorney General has listed a person, group or entity under 17 PNC Section 3344, it shall make all reasonable efforts to provide the person, group or entity written notice of the listing within five (5) days. The notice shall inform the person, group or entity of publicly-releasable information concerning the reasons for listing, de-listing procedures and the procedures by which the person, group or entity can challenge the listing. The notice may be given:

(1) for a natural person, by posting it to the last known address;

(2) for a legal person or entity, by posting it to its registered or principal office or local agent within two weeks or, in the absence of a registered or principal office or local agent, to its last known address; or

(3) for a group, by whatever possible means.

(b) If the person, group or entity referenced in subsection (a) is domiciled outside Palau, the Attorney General shall forward a copy of the written notice to the government of the State where the person, group or entity is domiciled or located and request that service be made at the first available opportunity. If the whereabouts of the person, group or entity are unknown, the Attorney General shall forward a copy of the written notice to the government of the State of which the person is a national and request that service be made at the first available opportunity.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3347], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3349. Authorization for limited use of frozen property.

(a) Upon written request of the person, group or entity whose property was frozen, the Attorney General may grant specific authorization, under such conditions as it deems appropriate to prevent the financing of terrorism, for the use of frozen property or the provision of property for:

(1) taxes, insurance payments, public utility service fees such as water, electricity, gas, and telecommunications, and of charges due to a financial institution for the maintenance of accounts;

(2) essential basic necessities of life of a natural person or a member of his/her family, including in particular payments for foodstuffs, medicines, reasonable rent or mortgage for the family residence and reasonable fees and charges concerning medical treatment of members of that family;

(3) the payment of reasonable fees and reimbursement of incurred expenses associated with the provision of legal services.

(b) Having determined that property frozen pursuant to 17 PNC Section 3341 is to be used for purposes listed in subsection (a), the Attorney General shall notify the United Nations Sanctions Committee that has made the designation of its intention to authorize an exemption under this provision. In the absence of a negative decision from the United Nations Sanctions Committee within three (3) business days of the notification, the Attorney General may order the exclusion of the property under subsection (a) from the freezing obligation.

(c) Upon written request of the person, group or entity whose property was frozen pursuant to 17 PNC Section 3341, the Attorney General may grant specific authorization, under such conditions as it deems appropriate to prevent the financing of terrorism, for the use or provision of such property upon determination that such property is necessary to cover extraordinary expenses. An authorization for necessary extraordinary expenses may be granted only upon express authorization by the United Nations Sanctions Committee that has made the designation.

(d) The following payments or credits may be made into a frozen account provided such payments or credits are or become immediately subject to the property freeze:

(1) those due to a person, group or entity listed by the Attorney General under 17 PNC Section 3344 under contract, agreement or obligation that were concluded or arose before the date the account became subject to the property freeze;

(2) interest or other earnings due on the account and payments into such account in favor of a person, group or entity listed by the Attorney General under 17 PNC Section 3344.

(e) Upon receipt of a request for an authorization referred to in subsections (a) or (c) above, the Attorney General shall notify the requestor within 30 days of the receipt of such request, the grounds upon which it intends either to grant or reject the request, and if granted set forth the

conditions that the Attorney General considers necessary to prevent the financing of terrorism. The Attorney General may vary or revoke an authorization at any time.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3348], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3350. Promulgation of rules.

The Attorney General shall prescribe such procedures and rules as are necessary or expedient for the implementation of the provisions under this Subchapter V of Chapter 33 of 17 PNC, including rules pertaining to the custody and administration of property subject to a freezing measure, the collection of information or evidence, and listing procedures, and other actions, proceedings and requests made under Subchapter V of this chapter.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3349], modified.

Notes
"Subchapter V" replaced the word "Part V" in the original legislation per Code Commission.

§ 3351. Penalties.

(a) Any person who intentionally or by criminal negligence fails to comply with a freeze obligation set forth in this chapter, shall be guilty of a class C felony or a maximum fine of ten thousand dollars ($10,000), or both.

(b) It shall also be an offense under this section to participate intentionally or by criminal negligence in any activity the object or effect of which is, directly or indirectly, to circumvent the provisions of this Law.

(c) A financial institution or designated non-financial business and profession who commits an offense under this section also commits an administrative violation and may be subject to the measures and sanctions provided for under 17 PNC Section 3329.

(d) A person shall not be responsible for a loss or claim resulting from the freezing of property or the refusal to make property available or to provide financial services where such an act is carried out in good faith, unless criminal negligence or reckless or intentional misconduct is proven.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 33 § 3350], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

Chapter 34 — Cable Television and Telecommunication Service Offenses

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 34 read §§ 3400–3404, which has been renumbered to §§ 3401–3405 to conform with the Style of the Code.

Former Chapter 34 of Title 17 of the Palau National Code entitled "Trust Territory Weapons Control Act" is renumbered as Chapter 46 of Title 17 of the Palau National Code by RPPL 9-21 § 4 (d).

§ 3401. Cable television service fraud in the first degree.

(a) A person commits cable television service fraud in the first degree if the person knowingly:
   (1) distributes written instructions or plans to make or assemble a cable television service device and knows that the written plans or instructions are intended to be used to make or assemble a device to obtain cable television service without payment of applicable charges; or
   (2) distributes a cable television service device and knows that the device is intended to be used to obtain cable television service without payment of applicable charges.

(b) Cable television service fraud in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 34 § 3400], modified.

§ 3402. Cable television service fraud in the second degree.

(a) A person commits the offense of cable television service fraud in the second degree if the person knowingly:
   (1) possesses a cable television service device with the intent to obtain cable television service without payment of applicable charges; or
   (2) possesses written instructions or plans to make or assemble a cable television service device with the intent to use the written plans or instructions to make or assemble a device to obtain cable television service without payment of applicable charges.

(b) Cable television service fraud in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 34 § 3401], modified.

§ 3403. Telecommunication service fraud in the first degree.

(a) A person commits the offense of telecommunication service fraud in the first degree if the person:
   (1) knowingly publishes plans or instructions for making, assembling, or using a telecommunication service device, or sells, offers to sell, distributes, transfers, or

otherwise makes available written instructions, plans, or materials including hardware, cables, tools, data, computer software, or other information or equipment to make or assemble a telecommunication service device and knows that the written plans, instructions, or materials are intended to be used to make or assemble a device to obtain telecommunication service without payment of applicable charges;

(2) knowingly makes, assembles, sells, offers to sell, advertises, distributes, transports, transfers, or otherwise makes available a telecommunication service device and knows that the device is intended to be used to obtain telecommunication service without payment of applicable charges; or

(3) with the intent to defraud another of the lawful charge for any telecommunication service that is provided for a charge or compensation:

(A) publishes, sells, offers for sale, or otherwise makes available an access device, without obtaining the consent of the holder of the access device or the telecommunication service provider;

(B) uses an access device, without obtaining the consent of the holder of the access device or the telecommunication service provider, resulting in obtaining services, the value of which exceeds three hundred dollars ($300) in any six-month period;

(C) engages in a scheme constituting a systematic and continuing course of conduct to obtain an access device from another by false or fraudulent pretenses, representations, or promises and does obtain an access device from the other person; or

(D) uses a telecommunication service device for the purpose of obtaining telecommunication services, the value of which exceeds three hundred dollars ($300) in any six-month period, without obtaining the consent of the holder of the telecommunication service device or the telecommunication service provider.

(b) For the purpose of 17 PNC Section 3403:

(1) "access device" means any number or code of an existing, canceled, revoked, or nonexistent telephone number, telephone calling card number, credit card number, account number, personal identification number, or other credit device or method of numbering or coding that is employed in the issuance of telephone numbers, credit numbers, or other credit devices that can be used to obtain telecommunication service.

(2) "holder of access device" means a person or organization to which an access device has been issued by a telecommunication service provider.

(3) "publish" means the communication or dissemination of information to any one or more persons, either orally, in person, or by telephone, radio, television, or computer, or in a writing of any kind, including without limitation a letter, memorandum, circular, handbill, newspaper, magazine article, or book.

(c) Telecommunication service fraud in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 34 § 3402], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3404. Telecommunication service fraud in the second degree.

(a) A person commits the offense of telecommunication service fraud in the second degree if the person:

(1) knowingly possesses a telecommunication service device with the intent to obtain telecommunication service without payment of applicable charges;

(2) knowingly possesses written instructions or plans to make or assemble a telecommunication service device with the intent to use the written plans or instructions to make or assemble a device to obtain telecommunication service without payment of applicable charges; or

(3) with the intent to defraud another of the lawful charge for any telecommunication service, which is provided for a charge or compensation:

(A) uses an access device without obtaining the consent of the holder of the access device or the telecommunication service provider, resulting in obtaining services, the value of which does not exceed three hundred dollars ($300) in any six-month period; or

(B) uses a telecommunication service device for the purpose of obtaining telecommunication services, the value of which does not exceed three hundred dollars ($300) in any six-month period, without obtaining the consent of the holder of the telecommunication service device or the telecommunication service provider.

(b) For the purposes of 17 PNC Section 3404:

(1) "access device" means any number or code of an existing, canceled, revoked, or nonexistent telephone number, telephone calling card number, credit card number, account number, personal identification number, or other credit device or method of numbering or coding that is employed in the issuance of telephone numbers, credit numbers, or other credit devices that can be used to obtain telecommunication service.

(2) "holder of access device" means a person or organization to which an access device has been issued by a telecommunication service provider.

(c) Telecommunication service fraud in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 34 § 3403], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3405. Forfeiture of telecommunication service device and cable television service device.

Any telecommunication service device, cable television service device, or instructions or plans therefor, or any materials for making or assembling a telecommunication service device possessed or used in violation of 17 PNC Sections 3401 to 3404 may be ordered forfeited to the Republic of

Palau for destruction or other disposition, subject to the requirements of 17 PNC Chapter 7 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 34 § 3404], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

Chapter 35 — Arson

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 34 read §§ 3500–3503, which has been renumbered to §§ 3501–3504 to conform with the Style of the Code.

§ 3501. Arson in the first degree.

(a) A person commits the offense of arson in the first degree if the person intentionally or knowingly sets fire to or causes to be burned property and:

(1) knowingly places another person in danger of death or bodily injury; or

(2) knowingly or recklessly damages the property of another, without the other's consent, in an amount exceeding twenty thousand dollars ($20,000).

(b) Arson in the first degree is a class A felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3501 and RPPL 9-21 § 5 [Chapter 35 § 3500], modified, adds section.

§ 3502. Arson in the second degree.

(a) A person commits the offense of arson in the second degree if the person intentionally or knowingly sets fire to or causes to be burned property and:

(1) recklessly places another person in danger of death or bodily injury; or

(2) knowingly or recklessly damages the property of another, without the other's consent, in an amount exceeding one thousand five hundred dollars ($1,500).

(b) Arson in the second degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3502 and RPPL 9-21 § 5 [Chapter 35 § 3501], modified, adds section.

§ 3503. Arson in the third degree.

(a) A person commits the offense of arson in the third degree if the person intentionally or knowingly sets fire to or causes to be burned property and:

(1) negligently places another person in danger of death or bodily injury; or

(2) knowingly or recklessly damages the property of another, without the other's consent, in an amount exceeding five hundred dollars ($500).

(b) Arson in the third degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3503 and RPPL 9-21 § 5 [Chapter 35 § 3502], modified, adds section.

§ 3504. Arson in the fourth degree.

(a) A person commits the offense of arson in the fourth degree if the person intentionally, knowingly, or recklessly sets fire to, or causes to be burned property and thereby damages the property of another without the other's consent.

(b) Arson in the fourth degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 3 repeals former § 3504 and RPPL 9-21 § 5 [Chapter 35 § 3503], modified, adds section.

Chapter 36 — Cash Courier Disclosure

Chapter Notes

Notes
RPPL 7-27 § 2 cited this Act as new Chapter 39 to Title 17, but Chapter 39 was already designated to "Anti-People Smuggling and Trafficking Act".

Former Chapter 41 of Title 17 of the Palau National Code entitled "Cash Courier Disclosure Act" is renumbered as Chapter 36 of Title 17 of the Palau National Code and its title amended as "Cash Courier Disclosure" by RPPL 9-21 § 4(h).

§ 3601. Short title.

This chapter shall be known and may be cited as the "Cash Courier Disclosure Act of 2007".

Section Notes

Sources
RPPL 7-27 § 2, modified.
RPPL 9-21 § 3 repeals former § 3601 and RPPL 9-21 § 4(h) and § 5 [Chapter 36 § 3600], modified, recodifies section from 17 PNC § 4101 to 17 PNC § 3601.

§ 3602. Definitions.

In this chapter, unless the context otherwise requires:

(1) "Attorney General" means the Attorney General of the Republic of Palau;

(2) "currency" refers to banknotes and coins that are in circulation as a medium of exchange;

(3) "declaration" means the form prescribed by the Division of Customs, which requires a signed, written disclosure of the transport of currency or negotiable instruments into or out of the Republic of Palau;

(4) "Division of Customs" means the Ministry of Finance, Bureau of Revenue, Customs & Taxation, Division of Customs;

(5) "Financial Intelligence Unit" means the governmental unit created pursuant to Section 15 of RPPL No. 6-4;

(6) "negotiable instruments" includes monetary instruments in bearer form, including but not limited to, checks, travelers checks, promissory notes and money orders that are either endorsed without restrictions, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery, such as signed instruments, with the payee's name omitted;

(7) "person" means any natural or legal person;

(8) "Supreme Court" means the Supreme Court of the Republic of Palau, and all its divisions;

(9) "transport cash or negotiable instruments" refers to any in-bound or out-bound physical transportation of currency or negotiable instruments from one country to another country. The term includes the following modes of transportation:

(A) physical transportation by a natural person, or in that person's accompanying luggage or vehicle;

(B) shipment of currency through containerized cargo; or

(C) the mailing of currency or negotiable instruments by a natural or legal person.

Section Notes

Sources
RPPL 7-27 § 3[3901], modified.
RPPL 9-21 § 3 repeals former § 3602 and RPPL 9-21 § 4(h) and § 5 [Chapter 36 § 3601], modified, recodifies section from 17 PNC § 4102 to 17 PNC § 3602.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 3603. Report on the transport of cash and negotiable instruments.

(a) Any person who attempts to, or physically transports cash or negotiable instruments in an aggregate amount of ten thousand dollars ($10,000) or more (or its equivalent in foreign currency) at one time into or out of the Republic of Palau shall make a written, signed declaration thereof to the Division of Customs on the form prescribed by the Division of Customs. A copy shall be provided to the Financial Intelligence Unit. A person is deemed to have caused such transportation, mailing or shipping when he or she, aids, abets, counsels, commands, procures, or requests it to be done by a financial institution or any other person.

(b) This section shall not require a declaration to be submitted by:

(1) a bank licensed by the Financial Institutions Commission or its agent in respect to currency or other negotiable instruments physically carried into or out of Palau for its own domestic use or purposes;

(2) a common carrier of passengers in respect to currency or other negotiable instruments in the possession of its passengers;

(3) a common carrier of goods in respect to shipments of currency or negotiable instruments not declared to be such by the shipper;

(4) a traveler's check issuer or its agent in respect to the transportation of travelers' checks prior to their delivery to selling agents for eventual sale to the public.

(c) A transfer of funds through normal banking procedures that does not involve the physical transportation of currency or negotiable instruments is not required to be reported by this section. This section does not require that more than one declaration be filed covering a particular transportation, mailing or shipping of currency or other negotiable instruments with respect to which a complete and truthful declaration has been filed by a person. However, no person required by paragraph (a) of this section to file a declaration shall be excused from liability for failure to do so if, in fact, a complete and truthful declaration has not been filed. A copy of any declaration that is filed shall accompany the currency until its final destination.

Section Notes

Sources
RPPL 7-27 § 3[3902], modified.
RPPL 9-21 § 3 repeals former § 3603 and RPPL 9-21 § 4(h) and § 5 [Chapter 36 § 3602], modified, recodifies section from 17 PNC § 4103 to 17 PNC § 3603.

§ 3604. Requirement to promulgate regulation.

The Division of Customs shall promulgate such regulations as may be necessary to enforce the requirements of this chapter.

Section Notes

Sources
RPPL 7-27 § 3[3903], modified.
RPPL 9-21 § 3 repeals former § 3604 and RPPL 9-21 § 4(h) and § 5 [Chapter 36 § 3603], modified, recodifies section from 17 PNC § 4104 to 17 PNC § 3604.

§ 3605. Availability of information.

(a) If the Division of Customs suspects or has reasonable grounds to suspect that a negotiable instrument or currency is being transported in violation of this chapter, or if the Division of Customs suspects or has reasonable grounds to suspect that any negotiable instrument or currency, regardless of amount, is the proceeds of criminal activity or related to terrorist financing, it shall report the factual basis to the Attorney General, and file a suspicious transaction report with the Financial Intelligence Unit within forty eight (48) hours. The report filed with the Financial Intelligence Unit shall be in form and manner set forth in regulations promulgated by the Financial Intelligence Unit for this purpose.

(b) The Division of Customs and the Financial Intelligence Unit may make any information set forth in any report received pursuant to this chapter available to another agency of the government or to an agency of a foreign government, upon the request of the head of such department or agency made in writing and stating the particular information desired, and the criminal, tax or regulatory purpose for which the information is sought.

(c) Any information made available under this section to other departments or agencies of the government of Palau, or any foreign government, shall be received by them in confidence, and shall not be disclosed to any person except for official purposes relating to the investigation, proceeding, or matter in connection with which the information is sought.

Section Notes

Sources
RPPL 7-27 § 3[3904], modified.
RPPL 9-21 § 3 repeals former § 3605 and RPPL 9-21 § 4(h) and § 5 [Chapter 36 § 3604], modified, recodifies section from 17 PNC § 4105 to 17 PNC § 3605.

§ 3606. Enforcement authority with respect to transportation of currency or negotiable instruments.

(a) If an officer of the Division of Customs suspects or has reasonable cause to believe that there is a negotiable instrument or currency being transported without the filing of the declaration required by § 3603 of this chapter, he or she may stop and search, without a search warrant, a vessel, aircraft, or other conveyance, envelope, or other container, or person entering or departing from the Republic of Palau with respect to which or whom the officer reasonably believes is transporting such instrument or currency. Such authority shall only be applicable at ports of entry to the Republic of Palau.

(b) If an officer of the Division of Customs suspects or has reasonable cause to believe that a negotiable instrument or currency is the proceeds of a criminal activity or are related to terrorist financing, he or she may stop and search, without a search warrant, a vessel, aircraft, or other conveyance, envelope or other container, or person entering or departing from the Republic of Palau with respect to which or whom the officer reasonably believes is transporting such instrument or currency. Such authority shall only be applicable at ports of entry to the Republic of Palau.

(c) If the Office of the Attorney General has reason to believe that currency or negotiable instruments in an aggregate amount of ten thousand dollars ($10,000) or more (or its equivalent in foreign currency) are being or have been transported, and no declaration has been filed, or a materially incomplete or inaccurate declaration has been filed, the Office of the Attorney General may apply to the Supreme Court for a search warrant. Upon a showing of probable cause, the court may issue a warrant authorizing the search of any or all of the following:

(1) one or more designated persons;

(2) one or more designated or described places or premises;

(3) one or more designated or described letters, parcels, packages, or other physical objects;

(4) one or more designated or described vehicles.

(d) If an officer of the Division of Customs has reasonable cause to believe that a negotiable instrument or currency is being transported without the filing of the declaration required by § 3603 of this chapter, or that a negotiable instrument or currency is the proceeds of crime or related to terrorist financing, the officer may seize the currency or negotiable instrument and hold them for a period of fourteen (14) calendar days pending investigation of the matter. For good cause shown, the Office of the Attorney General may apply to the Supreme Court for additional fourteen (14) day extensions of this period.

Section Notes

Sources
RPPL 7-27 § 3[3905], modified.
RPPL 9-21 § 4(h) and § 5 [Chapter 36 § 3605], modified, recodifies section from 17 PNC § 4106 to 17 PNC § 3606.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3607. Penalties.

The penalties stated below are in addition to any criminal or civil penalties which may be imposed under any other provisions of law applicable in the Republic of Palau.

(1) Administrative penalty. For any failure to file a declaration required under this chapter, or for filing such a declaration containing any material omission or misstatement, the Chief of the Division of Customs may assess an administrative penalty of five percent (5%) of the amount of the currency or negotiable instruments transported, mailed, or shipped.

(2) Civil penalty. The Attorney General may bring a civil action in the Republic of Palau against any person who willfully violates the requirements of this chapter. Upon proof

by a preponderance of the evidence that such person committed the offense, the person shall be subject to a civil penalty not to exceed twice the amount of the currency or negotiable instruments carried, or attempted to be carried, by the defendant. Willfulness may be inferred through objective factual circumstances.

(3) Penalties applicable to corporate entities. Corporate entities, other than the Republic of Palau, on whose behalf or for whose benefit a violation of § 3603 has been committed by one or their agents or representatives, shall be fined in an amount equal to two times the fines specified for natural persons. In the case of corporate entities that are found guilty of three or more offenses under § 3603 within a five-year period, such entities may be:

(A) permanently or for a minimum of five years banned from directly or indirectly carrying on the business activities in the Republic of Palau for which they are licensed or conducted at the time of the offense;

(B) ordered to close permanently; or

(C) required to publicize the judgment in the press or by radio or television.

Section Notes

Sources
RPPL 7-27 § 3[3906], modified.
RPPL 9-21 § 4(h) and § 5 [Chapter 36 § 3606], modified, recodifies section from 17 PNC § 4107 to 17 PNC § 3607.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 3608. Applicable law for rulemaking and regulations.

The Administrative Procedure Act, 6 PNC Chapter 1, shall apply for all rules and regulations promulgated under this chapter.

Section Notes

Sources
RPPL 7-27 § 3[3907], modified.
RPPL 9-21 § 4(h) and § 5 [Chapter 36 § 3607], modified, recodifies section from 17 PNC § 4108 to 17 PNC § 3608.

Chapter 37 — Smuggling

Chapter Notes

Notes
Former Chapter 37 of Title 17 of the Palau National Code entitled "Smuggling" is renumbered as Chapter 37 of Title 17 of the Palau National Code by RPPL 9-21 § 4 (e).

§ 3701. Entry of goods falsely classified.

Whoever knowingly effects any entry into the Republic of goods, wares, or merchandise, at less than the true weight or measure thereof, or upon a false classification as to quality or value, or by the payment of less than the amount of tax legally due, shall be fined not more than five thousand dollars ($5,000) or imprisoned not more than five (5) years, or both.

Section Notes

Sources
RPPL 6-20 § 2[3701].
RPPL 9-21 § 5 [Chapter 37 § 3700], modified, amends section.

§ 3702. Entry of goods by means of false statements.

(a) Whoever introduces or attempts to introduce into the commerce of the Republic any imported goods by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or translation of any of the foregoing, or by means of any false statement, written or oral, or by means of any false or fraudulent practice, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the Republic shall or may be deprived of any lawful tax revenues, shall, upon conviction thereof, be fined for each offense not more than five thousand dollars ($5,000) or imprisoned not more than five (5) years, or both.

(b) Whoever is guilty of any willful act or omission whereby the Republic shall or may be deprived of any lawful taxes accruing upon goods embraced or referred to in an invoice, declaration, affidavit, letter, paper, or statement described in subsection (a), or affected by such act or omission, shall, upon conviction thereof, be fined for each offense not more than five thousand dollars ($5,000) or imprisoned not more than five (5) years, or both.

(c) Nothing in this section shall be construed to relieve imported goods from forfeiture under other provisions of law.

Section Notes

Sources
RPPL 6-20 § 2[3702].
RPPL 9-21 § 5 [Chapter 37 § 3701], modified, amends section.

Supreme Court Cases
Sugiyama v. Han, 2020 Palau 16 ¶¶ 34, 35 (App. Div.).

§ 3703. Entry of goods for less than legal tax.

Whoever, being an officer of the Bureau of Revenue, Customs and Taxation, knowingly admits to entry any goods, wares, or merchandise upon payment of less than the amount of tax legally due, shall be fined not more than five thousand dollars ($5,000) or imprisoned not more than five (5) years, or both, and removed from office.

Section Notes

Sources
RPPL 6-20 § 2[3703].
RPPL 9-21 § 5 [Chapter 37 § 3702], modified, amends section.

§ 3704. Smuggling goods into the Republic.

(a) Every person who knowingly, with intent to defraud the Republic, introduces taxable goods into the Republic and fails to declare the goods and their true value and pay import taxes thereon pursuant to 40 PNC Chapter 13 or excise taxes thereon pursuant to 40 PNC Chapter 26, or who passes or attempts to pass a false or fraudulent declaration or other statement of the value of the goods, or a false or fraudulent translation of such a declaration or statement, shall, upon conviction thereof, be imprisoned not more than five (5) years, or fined not less than twice the value of the goods, or both.

(b) Every person who fraudulently or knowingly introduces or attempts to introduce goods into the Republic contrary to the laws of the Republic, or who receives, conceals, buys, sells, or in any way facilitates the transportation, concealment, or sale of such goods after importation, knowing the goods to have been imported or introduced into the Republic contrary to law, shall, upon conviction thereof, be imprisoned not more than five (5) years, or fined not more than five thousand dollars ($5,000), or both, in addition to being subject to any other penalty under law for possession of the prohibited goods.

(c) Goods, or the value thereof, introduced into the Republic in violation of this section and to be recovered from any person described in subsections (a) or (b), shall be forfeited to the Republic.

Section Notes

Sources
RPPL 6-20 § 2[3704].
RPPL 9-21 § 5 [Chapter 37 § 3703], modified, amends section.
RPPL 11-11 § 18, modified, amends subsection (a).

§ 3705. Smuggling goods into foreign countries.

(a) Any person owning in whole or in part any vessel or aircraft registered in the Republic who employs, or participates in or allows the employment of, such vessel or aircraft for the purpose of smuggling, or attempting to smuggle, or assisting in smuggling, any goods into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the Republic respecting the customs revenue, and any citizen of, or person domiciled in, or any corporation incorporated in, the Republic, controlling or substantially participating in the control of any such vessel or aircraft, directly or indirectly, whether through ownership of corporate shares or otherwise, and allowing the employment of the vessel or aircraft for any

such purpose, and any person found or discovered to have been on board any vessel or aircraft so employed and participating or assisting in such purpose, shall, upon conviction thereof, be fined not more than five thousand dollars ($5,000) or imprisoned not more than five (5) years, or both.

(b) It shall constitute an offense under this section to hire out or charter a vessel or aircraft if the lessor or charterer has knowledge or reasonable grounds for belief that the lessee or person chartering the vessel or aircraft intends to employ the vessel or aircraft for any of the purposes described in this section and if the vessel or aircraft is, during the time such lease or charter is in effect, employed for any such purpose.

Section Notes

Sources
RPPL 6-20 § 2[3705].
RPPL 9-21 § 5 [Chapter 37 § 3704], modified, amends section.

§ 3706. Removing goods from customs custody; breaking seals.

It shall constitute an offense under this section, punishable by a fine of not more than five thousand dollars ($5,000) or imprisonment not more than five (5) years, or both:

(1) without authority, to affix or attach a customs seal, fastening, or mark, or any seal, fastening, or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, aircraft, warehouse, or package; or

(2) without authority, willfully to remove, break, injure, or deface any customs seal or other fastening or mark placed upon any vessel, vehicle, aircraft, warehouse, or package containing goods or baggage in bond or in customs custody; or

(3) maliciously to enter any customs warehouse or bonded warehouse or any vessel, aircraft, or vehicle laden with or containing bonded goods with intent unlawfully to remove therefrom any goods or baggage therein, or unlawfully to remove any goods or baggage in such vessel, aircraft, vehicle, or warehouse or otherwise in customs custody and control; or

(4) to receive or transport any goods or baggage unlawfully removed from any such vessel, aircraft, vehicle, or warehouse, knowing the same to have been unlawfully removed.

Section Notes

Sources
RPPL 6-20 § 2[3706].
RPPL 9-21 § 5 [Chapter 37 § 3705], modified, amends section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 3707. False claim for refund of import tax.

Whoever knowingly and willfully files any false or fraudulent entry or claim for the payment of a refund of import tax upon the export of goods or knowingly or willfully makes or files any false affidavit, abstract, record, certificate, or other document, or a false translation of any of the foregoing, with the intention of securing the payment to himself or herself or others any refund of import taxes on the exportation of goods greater than that legally due thereon, shall be fined not

more than five thousand dollars ($5,000) or imprisoned not more than five (5) years, or both, and such goods or the value thereof shall be forfeited.

Section Notes

Sources
RPPL 6-20 § 2[3707].
RPPL 9-21 § 5 [Chapter 37 § 3706], modified, amends section.

§ 3708. Concealing or destroying invoices or other papers.

It shall constitute an offense under this section, punishable by a fine of not more than five thousand dollars ($5,000) or imprisonment not more than five (5) years, or both:

(1) willfully to conceal or destroy any invoice, book, or paper relating to any goods imported into the Republic, after an inspection thereof has been demanded by an officer of the Bureau of Revenue, Customs and Taxation; or

(2) to conceal or destroy at any time any such invoice, book, or paper for the purpose of suppressing evidence of fraud contained therein.

Section Notes

Sources
RPPL 6-20 § 2[3708].
RPPL 9-21 § 5 [Chapter 37 § 3707], modified, amends section.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 3709. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft.

(a) It shall constitute an offense under this section, punishable by a fine of not more than five thousand dollars ($5,000) or imprisonment not more than five (5) years, or both, knowingly to import, export, or attempt to import or export:

(1) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel, or aircraft, knowing the same to have been stolen; or

(2) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel, or aircraft, knowing that the identification number of such motor vehicle, equipment, or part has been removed, obliterated, tampered with, or altered.

(b) Subsection (a)(2) shall not apply if the removal, obliteration, tampering or alteration is caused by collision or fire or, in the case of a motor vehicle, is not a violation of 42 PNC § 519 (relating to tampering with a vehicle).

(c) As used in this section:

(1) "motor vehicle" has the meaning given that term in 42 PNC § 101;

(2) "off-highway mobile equipment" means any self-propelled agricultural equipment, self-propelled construction equipment, and self-propelled special use equipment, used or designed for running on land but not on rail or highway;

(3) "vessel" has the meaning of that term as used in 7 PNC;

(4) "aircraft" has the meaning given that term in 8 PNC § 101(e), as amended by RPPL No. 5-19; and

(5) "identification number" means a number or symbol assigned to the vehicle, equipment, vessel, or aircraft, or part thereof, by the manufacturer primarily for the purpose of identifying such vehicle, equipment, vessel, or aircraft, or part."

Section Notes

Sources
RPPL 6-20 § 2[3709].
RPPL 9-21 § 5 [Chapter 37 § 3708], modified, amends section.

DIVISION 5 — OFFENSES AGAINST PUBLIC ADMINISTRATION

Chapter 38 — General Provisions Relating to Offenses Against Public Administration

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 38 read §§ 3800–3801, which has been renumbered to §§ 3801–3802 to conform with the Style of the Code.

Former Chapter 38 of Title 17 of the Palau National Code entitled "Money Laundering" was repealed by RPPL 9-21 § 3. See Chapter 33 for money laundering.

§ 3801. Definitions of terms in this division.

In this chapter, unless a different meaning plainly is required:

(1) "administrative proceeding" means any proceeding the outcome of which is required to be based on a record or documentation prescribed by law, or in which law or regulation is particularized in application to individuals.

(2) "benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare the beneficiary is interested.

(3) "custody" means restraint by a public servant pursuant to arrest, detention, or order of a court.

(4) "detention facility" means any place used for the confinement of a person:

(A) arrested for, charged with, or convicted of a criminal offense; or

(B) confined juvenile pursuant to adjudication as delinquent; or

(C) held for extradition; or

(D) otherwise confined pursuant to an order of a court.

(5) "government" includes any branch, subdivision, or agency of the national government of the Republic of Palau or any locality within it.

(6) "governmental function" includes any activity that a public servant is legally authorized to undertake on behalf of the government.

(7) "harm" means loss, disadvantage, or injury, or anything so regarded by the person affected, including loss, disadvantage, or injury to any other person or entity in whose welfare the person affected is interested.

(8) "juror" means any person who is a member of any jury impaneled by any court of the Republic of Palau or by any public servant authorized by law to impanel a jury, and also includes any person who has been drawn or summoned to attend as a prospective juror.

(9) "law enforcement officer" means any public servant, whether employed by the Republic of Palau or political subdivisions thereof, or any state thereof, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the

criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

(10) "materially false statement" means any false statement, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the proceeding; whether a falsification is material in a given factual situation is a question of law.

(11) "oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated, and, for the purposes of this chapter, written statements shall be treated as if made under oath if:

(A) the statement was made on or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable; or

(B) the statement recites that it was made under oath or affirmation, the declarant was aware of such recitation at the time the declarant made the statement and intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto.

(12) "oath required or authorized by law" means an oath the use of which is specifically provided for by statute or appropriate regulatory provision.

(13) "official proceeding" means a proceeding heard or that may be heard before any legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or deposition in connection with any such proceeding.

(14) "pecuniary benefit" is benefit in the form of money, property, commercial interests, or anything else the primary significance of which is economic gain.

(15) "public servant" means any officer or employee of any branch of government, whether elected, appointed, or otherwise employed, and any person participating as advisor, consultant, or otherwise, in performing a governmental function, but the term does not include jurors or witnesses.

(16) "statement" means any representation, but includes a representation of opinion, belief, or other state of mind only if the representation clearly relates to state of mind apart from or in addition to any facts that are the subject of the representation.

(17) "testimony" includes oral or written statements, documents, or any other material that may be offered by a witness in an official proceeding.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 38 § 3800], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 3802. Forfeiture of property used or obtained as benefit or pecuniary benefit in the commission of an offense defined in this division.

Any property offered, conferred, agreed to be conferred, or accepted as a benefit, pecuniary benefit, or compensation in the commission of an offense defined in this division is forfeited, subject to the requirements of 17 PNC Chapter 7 of this Penal Code, to the Republic of Palau.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 30 § 3801], modified.

Chapter 39 — Obstruction of Public Administration

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 39 read §§ 3900–3917, which has been renumbered to §§ 3901–3918 to conform with the Style of the Code.

Former Chapter 39 of Title 17 of the Palau National Code entitled "Anti-People Smuggling and Trafficking" is renumbered as Chapter 21 of Title 17 of the Palau National Code by RPPL 9-21 § 4(f).

§ 3901. Obstructing government operations.

(a) A person commits the offense of obstructing government operations if, by using or threatening to use violence, force, or physical interference or obstacle, the person intentionally obstructs, impairs, or hinders:
  (1) the performance of a governmental function by a public servant acting under color of the public servant's official authority;
  (2) the enforcement of the penal law or the preservation of the peace by a law enforcement officer acting under color of the law enforcement officer's official authority; or
  (3) the operation of a radio, telephone, television, or other telecommunication system owned or operated by the National Government or one of its political subdivisions.

(b) This section does not apply to the obstruction, impairment, or hindrance of the making of an arrest, which is covered by other sections of this Penal Code.

(c) Obstruction of government operations is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3900], modified.

§ 3902. Interference with reporting an emergency or crime.

(a) A person commits the offense of interference with reporting an emergency or crime if the person intentionally or knowingly prevents a victim or witness to a criminal act from calling a 911-emergency telephone system, obtaining medical assistance, or making a report to a law enforcement officer.

(b) Interference with the reporting of an emergency or crime is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3901], modified.

§ 3903. Compounding a crime.

(a) A person commits the offense of compounding a crime if the person intentionally accepts or agrees to accept any pecuniary benefit as consideration for:
  (1) refraining from seeking prosecution of an offense; or

(2) refraining from reporting to law-enforcement authorities the commission or suspected commission of any offense or information relating to the offense.

(b) It is an affirmative defense to a prosecution under subsection (a) that the pecuniary benefit did not exceed an amount that the defendant believed to be due as restitution or indemnification for harm caused by the offense.

(c) Compounding a crime is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3902], modified.

§ 3904. Rendering a false alarm.

(a) A person commits the offense of rendering a false alarm if the person knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, any other government agency, or any public or private utility that deals with emergencies involving danger to life or property.

(b) Rendering a false alarm is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3903], modified.

§ 3905. Misuse of 911 emergency telephone service.

(a) A person commits the offense of misuse of 911 emergency telephone service if the person accesses the telephone number 911 and:

(1) knowingly causes a false alarm; or

(2) makes a false complaint or a report of false information in reckless disregard of the risk that a public safety agency will respond by dispatching emergency services.

(b) Misuse of 911 emergency telephone service is a misdemeanor.

(c) For purposes of this section, "public safety agency" means any national or state, or community police, fire, emergency medical service, or civil defense emergency agency.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3904], modified.

§ 3906. False reporting to law-enforcement authorities.

(a) A person commits the offense of false reporting to law-enforcement authorities if the person intentionally makes a report or causes the transmission of a report to law-enforcement authorities relating to a crime or other incident within the concern of the law-enforcement authorities when the person knows that the information contained in the report is false.

(b) False reporting to law-enforcement authorities is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3905], modified.

§ 3907. Impersonating a public servant.

(a) A person commits the offense of impersonating a public servant if the person pretends to be a public servant, other than a law enforcement officer, and engages in any conduct in that capacity with intent to deceive anyone.

(b) It is no defense to a prosecution under this section that the office the person pretended to hold did not in fact exist.

(c) Impersonating a public servant is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3906], modified.

§ 3908. Obtaining a government-issued identification document under false pretenses in the first degree.

(a) A person commits the offense of obtaining a government-issued identification document under false pretenses in the first degree if that person, with intent to mislead a public servant and intent to facilitate a felony, obtains an identification document issued by the Republic of Palau by:

(1) making any statement, oral or written, that the person does not believe to be true, in an application for any identification document issued by the Republic of Palau; or

(2) submitting or inviting reliance on any writing that the person knows to be falsely made, completed, or altered.

(b) Obtaining a government-issued identification document under false pretenses in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3907], modified.

§ 3909. Obtaining a government-issued identification document under false pretenses in the second degree.

(a) A person commits the offense of obtaining a government-issued identification document under false pretenses in the second degree if that person, with intent to mislead a public servant, obtains an identification document issued by the Republic of Palau:

(1) making any statement, oral or written, that the person does not believe to be true, in an application for any identification document issued by the Republic of Palau; or

(2) submitting or inviting reliance on any writing that the person knows to be falsely made, completed, or altered.

(b) Obtaining a government-issued identification document under false pretenses in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3908], modified.

§ 3910. Impersonating a law enforcement officer in the first degree.

(a) A person commits the offense of impersonating a law enforcement officer in the first degree if, with intent to deceive, the person pretends to be a law enforcement officer and is armed with a firearm, whether loaded or not, and whether operable or not.

(b) Impersonating a law enforcement officer in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3909], modified.

§ 3911. Impersonating a law enforcement officer in the second degree.

(a) A person commits the offense of impersonating a law enforcement officer in the second degree if, with intent to deceive, the person pretends to be a law enforcement officer.

(b) Impersonating a law enforcement officer in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3910], modified.

§ 3912. Presumptions.

Any person, other than a law enforcement officer, who wears the uniform or displays the badge or identification card of a law enforcement officer, or who wears a uniform or displays a badge or identification card resembling the uniform, badge or identification card of a law enforcement officer, or a badge or identification card purported to be a law enforcement officer's badge or identification card, shall be presumed to be pretending to be a law enforcement officer.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3911], modified.

§ 3913. Defense.

(a) Employment by the Republic of Palau or political subdivision thereof, or any state thereof, as a law enforcement officer at the time of the conduct charged is an affirmative defense to a prosecution for impersonating a law enforcement officer.

(b) It is no defense to a prosecution for impersonating a law enforcement officer that the office the person pretended to hold did not in fact exist.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3912], modified.

§ 3914. Tampering with a government record.

(a) A person commits the offense of tampering with a government record if:

(1) the person knowingly and falsely makes, completes, or alters, or knowingly makes a false entry in, a written instrument that is or purports to be a government record or a true copy thereof; or

(2) the person knowingly presents or uses a written instrument that is or purports to be a government record or a true copy thereof, knowing that it has been falsely made, completed, or altered, or that a false entry has been made therein, with intent that it be taken as genuine; or

(3) the person knowingly records, registers, or files, or offers for recordation, registration, or filing, in a governmental office or agency, a written statement that has been falsely made, completed, or altered, or in which a false entry has been made, or that contains a false statement or false information; or

(4) knowing the person lacks the authority to do so:

(A) the person intentionally destroys, mutilates, conceals, removes, or otherwise impairs the availability of any government records; or

(B) the person refuses to deliver up a government record in the person's possession upon proper request of a public servant entitled to receive such record for examination or other purposes.

(b) For the purpose of this section, "government record" includes all official books, papers, written instruments, or records created, issued, received, or kept by any governmental office or agency or required by law to be kept by others for the information of the government.

(c) Tampering with government records is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3913], modified.

Supreme Court Cases
Gibbons v. Republic of Palau, 2023 Palau 27 ¶¶ 1, 5, 16 (App. Div.).

§ 3915. Tampering with mail.

(a) A person commits the offense of tampering with mail if the person intentionally, knowingly or recklessly opens or destroys mail not directed to him or her.

(b) Tampering with mail is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3914], modified.

§ 3916. Sale or manufacture of deceptive identification document; penalties.

(a) A person commits the offense of sale or manufacture of deceptive identification document if the person intentionally or knowingly manufactures, sells, offers for sale, furnishes, offers to be furnished, transports, offers to be transported, or imports or offers to be imported into the Republic of Palau a deceptive identification document.

(b) As used in this section, "deceptive identification document" means any identification document not issued by a governmental agency that purports to be, or that might deceive a reasonable person into believing that it is, an identification document issued by a governmental agency, including a driver's license, identification card, birth certificate, passport, or social security card.

(c) The sale or manufacture of a deceptive identification document is a class C felony.

(d) Any property used or intended for use in the commission of, attempt to commit, or conspiracy to commit an offense under this section, or that facilitated or assisted such activity, shall be subject to forfeiture under 17 PNC Chapter 7 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3915], modified.

§ 3917. Securing the proceeds of an offense.

(a) A person commits the offense of securing the proceeds of an offense if, with intent to assist another in profiting or benefitting from the commission of a crime, he or she aids the person in securing the proceeds of the crime.

(b) Securing the proceeds of an offense is a class C felony if the person assisted committed a class A or B felony or murder of any degree; otherwise it is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3916], modified.

§ 3918. Misconduct in public office.

(a) A person who, being a public official as defined in 33 PNC section § 601, does any illegal acts under the color of office, or who willfully neglects to perform the duties of his or her office as provided by law, shall be guilty of misconduct in public office.

(b) Misconduct in public office is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 39 § 3917], modified.

Supreme Court Cases
Gibbons v. Republic of Palau, 2023 Palau 27 ¶¶ 1, 5, 8, 14 (App. Div.).
Yoshiwo v. Republic of Palau, 2023 Palau 12 ¶ 3 (App. Div.).
Yoshiwo v. Republic of Palau, 2022 Palau 15 ¶ 4 (App. Div.).
Ellender Ngirameketii v. ROP, 2022 Palau 9 ¶¶ 7, 12, 15, 19, 51 (App. Div.).
Tulop v. ROP, 2021 Palau 9 ¶ 1 n.2 (App. Div.).
Republic of Palau v. Ngarchelong State Gov't., 2019 Palau 5 ¶ 5 (App. Div.).

Uchau v. ROP, 2017 Palau 34 ¶ 25 n.2 (App. Div.).

Chapter 40 — Escape and Other Offenses Related to Custody

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 40 read §§ 4000–4011, which has been renumbered to §§ 4001–4012 to conform with the Code numbering format.

Former Chapter 40 of Title 17 of the Palau National Code entitled "Prohibitions Against Chemical Weapons" is renumbered as Chapter 47 of Title 17 of the Palau National Code by RPPL 9-21 § 4 (g).

§ 4001. Escape in the first degree.

(a) A person commits the offense of escape in the first degree if the person intentionally employs physical force, the threat of physical force, or a dangerous instrument against the person of another in escaping from a correctional or detention facility or from custody.

(b) Escape in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4000], modified.

§ 4002. Escape in the second degree.

(a) A person commits the offense of escape in the second degree if the person intentionally escapes from a correctional or detention facility or from custody.

(b) Escape in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4001], modified.

§ 4003. Promoting prison contraband in the first degree.

(a) A person commits the offense of promoting prison contraband in the first degree if:

(1) the person intentionally conveys a dangerous instrument or drug to any person confined in a correctional or detention facility; or

(2) being a person confined in a correctional or detention facility, the person intentionally makes, obtains, or possesses a dangerous instrument or drug.

(b) A "dangerous instrument" means any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury. A dangerous instrument may only be possessed by or conveyed to a confined person with the facility administrator's express prior approval.

(c) A "drug" shall include all controlled substances as listed in schedules I through V of 34 PNC Chapter 31. A drug may only be possessed by or conveyed to a confined person with the facility administrator's express prior approval and under medical supervision.

(d) Promoting prison contraband in the first degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4002], modified.

§ 4004. Promoting prison contraband in the second degree.

(a) A person commits the offense of promoting prison contraband in the second degree if:

(1) the person intentionally conveys known contraband to any person confined in a correctional or detention facility; or

(2) being a person confined in a correctional or detention facility, the person intentionally makes, obtains, or possesses known contraband.

(b) "Contraband" means any article or thing, other than a dangerous instrument or drug as defined in 17 PNC Section 4003(b) and (c) of this chapter, that a person confined in a correctional or detention facility is prohibited from obtaining or possessing by statute, rule, or order.

(c) Promoting prison contraband in the second degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4003], modified.

Notes
The word "chapter" in subsection (b) read "Part" in the original legislation and was changed to "chapter" to conform with the standard format used in the Code.

§ 4005. Bail jumping in the first degree.

(a) A person commits the offense of bail jumping in the first degree if, having been released from custody by court order with or without bail, upon condition that the person will subsequently appear as ordered in connection with a charge of having committed a felony, the person knowingly fails to appear as ordered.

(b) Bail jumping in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4004], modified.

§ 4006. Bail jumping in the second degree.

(a) A person commits the offense of bail jumping in the second degree if, having been released from custody by court order with or without bail, upon condition that the person will subsequently appear as ordered in connection with a charge of having committed a misdemeanor or a petty misdemeanor, the person knowingly fails to appear as ordered.

(b) Bail jumping in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4005], modified.

§ 4007. Resisting arrest.

(a) A person commits the offense of resisting arrest if the person intentionally prevents a law enforcement officer acting under color of the law enforcement officer's official authority from effecting an arrest by:

(1) using or threatening to use physical force against the law enforcement officer or another; or

(2) using any other means creating a substantial risk of causing bodily injury to the law enforcement officer or another.

(b) Resisting arrest is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4006], modified.

§ 4008. Resisting an order to stop a motor vehicle.

(a) A person commits the offense of resisting an order to stop a motor vehicle if the person intentionally fails to obey a direction of a law enforcement officer, acting under color of the law enforcement officer's official authority, to stop the person's vehicle.

(b) Resisting an order to stop a motor vehicle is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4007], modified.

§ 4009. Hindering prosecution; definition of rendering assistance.

For the purposes of 17 PNC Sections 4010 and 4011 of this chapter, a person renders assistance to another if he or she:

(1) harbors or conceals such person;

(2) warns such person of impending discovery, apprehension, prosecution, or conviction, except this does not apply to a warning given in connection with an effort to bring another into compliance with the law;

(3) provides such person with money, transportation, weapon, disguise, or other means of avoiding discovery, apprehension, prosecution, or conviction;

(4) prevents or obstructs, by means of force, deception, or intimidation, anyone from performing an act that might aid in the discovery, apprehension, prosecution, or conviction of such person; or

(5) suppresses by an act of concealment, alteration, or destruction any physical evidence that might aid in the discovery, apprehension, prosecution, or conviction of such person.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4008], modified.

Notes
The word "chapter" read "Part" in the original legislation and was changed to "chapter" to conform with the standard format used in the PNC.

The Code Commission has made technical changes to the designations and cross-references within this section to conform to the Style of the Code.

§ 4010. Hindering prosecution in the first degree.

(a) A person commits the offense of hindering prosecution in the first degree if, with the intent to hinder the apprehension, prosecution, conviction, or punishment of another for a class A, B, or C felony or murder in any degree, the person renders assistance to the other person.

(b) Hindering prosecution in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4009], modified.

§ 4011. Hindering prosecution in the second degree.

(a) A person commits the offense of hindering prosecution in the second degree if, with the intent to hinder the apprehension, prosecution, conviction, or punishment of another for a crime, he or she renders assistance to such person.

(b) Hindering prosecution in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4010], modified.

§ 4012. Intimidating a correctional worker.

(a) A person commits the offense of intimidation of a correctional worker if the person uses force upon or a threat of force directed to a correctional worker, or the correctional worker's immediate family, with intent to influence such worker's conduct, decision, action or abstention from action as a correctional worker.

(b) "Correctional worker," as used in this section means any employee of the Republic of Palau who works in a correctional or detention facility, a court, a probation or paroling authority or who by law has jurisdiction over any legally committed offender or any person placed on probation or parole.

(c) "Threat" as used in this section means any threat proscribed by 17 PNC Section 1905(1) of this Penal Code.

(d) Intimidation of a correctional worker is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 40 § 4011], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

Chapter 41 — Bribery

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 41 read § 4100, which has been renumbered to § 4101 to conform with the Code numbering format.

Former Chapter 41 of Title 17 of the Palau National Code entitled "Cash Courier Disclosure Act" is renumbered as Chapter 36 of Title 17 of the Palau National Code and its title amended as "Cash Courier Disclosure" by RPPL 9-21 § 4(h).

§ 4101. Bribery.

(a) A person commits the offense of bribery if:

(1) the person confers, or offers or agrees to confer, directly or indirectly, any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, exercise of discretion, or other action in the public servant's official capacity; or

(2) while a public servant, the person solicits, accepts, or agrees to accept, directly or indirectly, any pecuniary benefit with the intent that the person's vote, opinion, judgment, exercise of discretion, or other action as a public servant will thereby be influenced.

(b) It is a defense to a prosecution under subsection (a) that the accused conferred or agreed to confer the pecuniary benefit as a result of extortion or coercion.

(c) For purposes of this section, "public servant" includes in addition to persons who occupy the position of public servant as defined in 17 PNC Section 3801, persons who have been elected, appointed, or designated to become a public servant although not yet occupying that position.

(d) Bribery is a class B felony. A person convicted of violating this section, notwithstanding any law to the contrary, shall not be eligible for a deferred acceptance of guilty plea or no contest plea under Subchapter I of 17 PNC Chapter 6 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 41 § 4100], modified.

Notes
"Subchapter I" in subsection (d) read "Part 1" in the original legislation and was changed to "Subchapter" to conform with the standard format used in the PNC. Sections referenced in this section has been renumbered to conform with the Code numbering format.

Chapter 42 — Perjury and Related Offenses

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 42 read §§ 4200 to 4210, which has been renumbered to §§ 4201 to 4211 to conform with the Code numbering format.

In RPPL 9-21 Chapter 42, there are several references to "this part" even though RPPL 9-21 does not have parts under Chapter 42. RPPL 9-21 references to "part" have therefore been changed to "chapter" to conform with the Style of the Code. Sections referenced in this chapter has been renumbered to conform with the Code numbering format.

Former Chapter 42 of Title 17 of the Palau National Code entitled "Terrorism" is renumbered as Chapter 22 of Title 17 of the Palau National Code by RPPL 9-21 § 4(i), modified.

§ 4201. Perjury.

(a) A person commits the offense of perjury if in any official proceeding the person makes, under an oath required or authorized by law, a false statement that the person does not believe to be true.

(b) No person shall be convicted under this section unless the court rules that the false statement is a "materially false statement" as defined by 17 PNC Section 3801 of this Penal Code. It is not a defense that the declarant mistakenly believed the false statement to be immaterial.

(c) Perjury is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4200] modified.

Supreme Court Cases
Sugiyama v. Han, 2020 Palau 16 ¶ 34 (App. Div.).

§ 4202. False swearing in official matters.

(a) A person commits the offense of false swearing in official matters if the person makes, under an oath required or authorized by law, a false statement that the person does not believe to be true, and:

(1) the statement is made in an official proceeding; or

(2) the statement is intended to mislead a public servant in the performance of the public servant's official duty.

(b) False swearing in official matters is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4201] modified.

§ 4203. False swearing.

(a) A person commits the offense of false swearing if the person makes, under oath required or authorized by law, a false statement that the person does not believe to be true.

(b) False swearing is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4202] modified.

§ 4204. Unsworn falsification to authorities.

(a) A person commits the offense of unsworn falsification to authorities if, with intent to mislead a public servant in the performance of the public servant's duty, the person:

(1) makes any written statement, which the person does not believe to be true, in an application for any pecuniary or other benefit or in a record or report required by law to be submitted to any governmental agency;

(2) submits or invites reliance on any writing that the person knows to be falsely made, completed, or altered; or

(3) submits or invites reliance on any sample, specimen, map, boundary-mark, or other object the person knows to be false.

(b) Unsworn falsification to authorities is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4203] modified.

Supreme Court Cases
Ellender Ngirameketii v. ROP, 2022 Palau 9 ¶¶ 12, 15 (App. Div.).
Tulop v. ROP, 2021 Palau 9 ¶ 1 n.2 (App. Div.).

§ 4205. Retraction.

(a) It is a defense to a prosecution under this chapter that the defendant retracted the defendant's falsification:

(1) if the falsification was made in an official proceeding, in the course of the same proceeding before discovery of the falsification became known to the defendant; or

(2) if the falsification was not made in an official proceeding, before reliance upon the falsification by the person or body for whom it was intended.

(b) "In the course of the same proceeding" includes separate hearings at separate stages of the same official or administrative proceeding but does not include any stage of the proceeding after the close of the evidence.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4204] modified.

Supreme Court Cases
Ellender Ngirameketii v. ROP, 2022 Palau 9 ¶ 7 (App. Div.).

§ 4206. Inconsistent statements.

(a) Where a person has made inconsistent statements, each of which if made with the requisite state of mind and under the requisite circumstances would constitute an offense specified in

this chapter, and both statements have been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant. In such case it shall not be necessary for the prosecution to prove which statement was false; it shall only be necessary for the prosecution to prove:

(1) that one or the other was false and not believed by the defendant to be true; and

(2) the attendant circumstances and states of mind necessary to constitute each statement, if false, as an offense.

(b) The most serious offense that a person may be convicted in such an instance shall be determined by hypothetically assuming each statement to be false. If offenses of different classes or grades would be established by the making of the two statements, the person may only be convicted of the lesser class or grade.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4205] modified.

§ 4207. No prosecution based on previous denial of guilt.

No prosecution shall be brought:

(1) under this chapter, if the substance of the defendant's false statement is the defendant's denial of guilt of an offense for which the defendant has previously been put in jeopardy; or

(2) for a substantive offense, the denial of which was the basis of a former prosecution under this chapter.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4206] modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4208. Corroboration.

In any prosecution under this chapter, except a prosecution based upon inconsistent statements pursuant to 17 PNC Section 4206 of this Penal Code, falsity of a statement may not be established solely through contradiction by the testimony of a single witness.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4207] modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4209. Irregularities no defense.

It is not a defense to a prosecution under this chapter:

(1) that the defendant was not competent, for reasons other than lack of penal responsibility, to make the false statement alleged; or

(2) that the statement was inadmissible under the rules of evidence; or

(3) that the oath was administered or taken in an irregular manner; or

(4) that the person administering the oath lacked authority to do so, if the taking of the oath was required or authorized by law.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4208] modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4210. Misrepresenting a notarized document in the first degree.

(a) A person commits the offense of misrepresenting a notarized document in the first degree if the person submits or invites reliance on a document that the person knows has been altered after the document had been notarized by a notary public in this or any other jurisdiction, and:

(1) the offense was committed with intent to mislead a public servant; or

(2) the offense was committed for purpose of commercial or private financial gain.

(b) Misrepresenting a notarized document in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4209] modified.

§ 4211. Misrepresenting a notarized document in the second degree.

(a) A person commits the offense of misrepresenting a notarized document in the second degree if, with intent to mislead another, the person submits or invites reliance on a document that the person knows has been altered after the document had been notarized by a notary public in this or any other jurisdiction.

(b) Misrepresenting a notarized document in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 42 § 4210] modified.

Chapter 43 — Offenses Related to Judicial and Other Proceedings

Chapter Notes

Notes
In the original statute section numbering in Chapter 43 read §§ 4300–4310, which has been renumbered to §§ 4301–4311 to conform with the Code numbering format.

Former Chapter 43 of Title 17 of the Palau National Code entitled "Laser Act", which was not repealed nor amended by RPPL 9-21, has been renumbered as Subchapter II of Chapter 44 of Title 17 of the Palau National Code, §§ 4421–4427.

§ 4301. Bribery of or by a witness.

(a) A person commits the offense of bribing a witness if he or she confers, or offers or agrees to confer, directly or indirectly, any benefit upon a witness or a person he or she believes is about to be called as a witness in any official proceeding with intent to:

(1) influence the testimony of that person;

(2) induce that person to avoid legal process summoning him or her to testify; or

(3) induce that person to absent himself or herself from an official proceeding to which he or she has been legally summoned.

(b) A witness or a person believing he or she is about to be called as a witness in any official proceeding commits the offense of bribe-receiving by a witness if he or she intentionally solicits, accepts, or agrees to accept, directly or indirectly, any benefit as consideration:

(1) that will influence his or her testimony;

(2) for avoiding or attempting to avoid legal process summoning him or her to testify; or

(3) for absenting or attempting to absent himself or herself from an official proceeding, to which he or she has been legally summoned.

(c) The offenses defined in this section are class C felonies.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4300] modified.

§ 4302. Intimidating a witness.

(a) A person commits the offense of intimidating a witness if he or she uses force upon or a threat directed to a witness or a person he or she believes is about to be called as a witness in any official proceeding, with intent to:

(1) influence the testimony of that person;

(2) induce that person to avoid legal process summoning him or her to testify; or

(3) induce that person to absent himself or herself from an official proceeding to which he or she has been legally summoned.

(b) "Threat" as used in this section means any threat proscribed by 17 PNC Section 1905(1) of this Penal Code.

(c) Intimidating a witness is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4301] modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 4303. Tampering with a witness.

(a) A person commits the offense of tampering with a witness if he or she intentionally engages in conduct to induce a witness or a person he or she believes is about to be called as a witness in any official proceeding to:

(1) testify falsely or withhold any testimony that he or she is not privileged to withhold; or

(2) absent himself or herself from any official proceeding to which he or she has been legally summoned.

(b) Tampering with a witness is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4302] modified.

§ 4304. Retaliating against a witness.

(a) A person commits the offense of retaliating against a witness if the person uses force upon or threatens a witness or another person or damages the property of a witness or another person because of the attendance of the witness, or any testimony given, or any record, document, or other object produced, by the witness in an official proceeding.

(b) "Threaten" as used in this section means any threat proscribed by 17 PNC Sections 1905(1) and 1905(2) of this Penal Code.

(c) Retaliating against a witness is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4303] modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 4305. Obstruction of justice.

(a) A person commits the offense of obstruction of justice if the person intentionally engages in the following conduct: When called as a witness and having been granted immunity by the

court before or after having been qualified as a witness, shall refuse to testify or be qualified as a witness when duly directed to testify or be qualified as a witness.

(b) Obstruction of justice is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4304] modified.

§ 4306. Bribery of or by a juror.

(a) A person commits the offense of bribing a juror if the person confers, or offers or agrees to confer, directly or indirectly, any benefit upon a juror with intent to influence the juror's vote, opinion, decision, or other action as a juror.

(b) A person is guilty of the offense of bribe-receiving by a juror if the person intentionally solicits, accepts, or agrees to accept, directly or indirectly, any benefit as consideration that will influence the person's vote, opinion, decision, or other action as a juror.

(c) The offenses defined in this section are class C felonies.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4305] modified.

§ 4307. Intimidating a juror.

(a) A person commits the offense of intimidating a juror if the person uses force or a threat with intent to influence a juror's vote, opinion, decision, or other action as a juror.

(b) "Threat" as used in this section means any threat proscribed by 17 PNC Section 1905(1) of this Penal Code.

(c) Intimidating a juror is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4306] modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 4308. Jury tampering.

(a) A person commits the offense of jury tampering if, with intent to influence a juror's vote, opinion, decision, or other action in a case, the person attempts directly or indirectly to communicate with a juror other than as part of the proceedings in the trial of the case.

(b) Jury tampering is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4307] modified.

§ 4309. Retaliating against a juror.

(a) A person commits the offense of retaliating against a juror if the person uses force upon or threatens a juror or another person because of the vote, opinion, decision, or other action of the juror in an official proceeding.

(b) "Threaten" as used in this section means any threat proscribed in 17 PNC Sections 1905(1) and 1905(2) of this Penal Code.

(c) Retaliating against a juror is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4308] modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format. The Code Commission has made technical changes to the cross-references within this section to conform to the Style of the Code.

§ 4310. Tampering with physical evidence.

(a) A person commits the offense of tampering with physical evidence if, believing that an official proceeding is pending or about to be instituted, the person:

(1) destroys, mutilates, conceals, removes, or alters physical evidence with intent to impair its verity in the pending or prospective official proceeding;

(2) makes, presents, or offers any false physical evidence with intent that it be introduced in the pending or prospective official proceeding.

(b) "Physical evidence," as used in this section includes any article, object, document, record, or other thing of physical substance.

(c) Tampering with physical evidence is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4309] modified.

§ 4311. Criminal contempt of court.

(a) A person commits the offense of criminal contempt of court if:

(1) the person recklessly engages in disorderly or contemptuous behavior, committed during the sitting of a court in its immediate view and presence, and directly tending to interrupt its proceedings or impair the respect due to its authority;

(2) the person creates a breach of peace or a disturbance with intent to interrupt a court's proceedings;

(3) as an attorney, clerk, or other officer of the court, the person knowingly fails to perform or violates a duty of the person's office, or knowingly disobeys a lawful directive or order of a court;

(4) the person knowingly publishes a false report of a court's proceedings;

(5) knowing that the person is not authorized to practice law, the person represents the person's self to be an attorney and acts as such in a court proceeding;

(6) the person intentionally records or attempts to record the deliberation of a jury;

(7) the person knowingly disobeys or resists the process, injunction, or other mandate of a court;

(8) the person intentionally refuses to be qualified as a witness in any court or, after being qualified, to answer any proper interrogatory without a privilege to refuse to answer; or

(9) being a juror, the person intentionally, without permission of the court, fails to attend a trial or official proceeding to which the person has been summoned or at which the person has been chosen to serve.

(b) Except as provided in subsection (c), criminal contempt of court is a misdemeanor.

(c) The court may treat the commission of an offense under subsection (a) as a petty misdemeanor, in which case:

(1) if the offense was committed in the immediate view and presence of the court, or under such circumstances that the court has knowledge of all of the facts constituting the offense, the court may order summary conviction and disposition; and

(2) if the offense was not committed in the immediate view and presence of the court, nor under such circumstances that the court has knowledge of all of the facts constituting the offense, the court shall order the defendant to appear before it to answer a charge of criminal contempt of court; the trial, if any, upon the charge shall be by the court without a jury; and proof of guilt beyond a reasonable doubt shall be required for conviction.

(d) When the contempt under subsection (a) also constitutes another offense, the contemnor may be charged with and convicted of the other offense notwithstanding the fact that the contemnor has been charged with or convicted of the contempt.

(e) Whenever any person is convicted of criminal contempt of court or sentenced therefor, the particular circumstances of the offense shall be fully set forth in the judgment and in the order or warrant of commitment.

(f)

(1) Nothing in this section shall be construed to alter the court's power to punish civil contempt. When the contempt consists of the refusal to perform an act that the contemnor has the power to perform, the contemnor may be imprisoned until the contemnor has performed it. In such a case the act shall be specified in the warrant of commitment. In any proceeding for review of the judgment or commitment, no presumption of law shall be made in support of the jurisdiction to render the judgment or order the commitment. When a court of competent jurisdiction issues an order compelling a parent to furnish support, including child support, medical support, or other remedial care, for the parent's child, it shall constitute prima facie evidence of a civil contempt of court upon proof that:

(A) the order was made, filed, and served on the parent or proof that the parent was present in court at the time the order was pronounced; and

(B) the parent did not comply with the order.

(2) An order of civil contempt of court based on prima facie evidence under this subsection shall clearly state that the failure to comply with the order of civil contempt of court may subject the parent to a penalty that may include imprisonment or, if imprisonment is immediately ordered, the conditions that must be met for release from imprisonment. A party may also prove civil contempt of court by means other than prima facie evidence under this subsection.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 43 § 4310], modified.

Notes
The Code Commission has made technical changes to the designations in subsection (f) to conform to the Style of the Code.

Supreme Court Cases
Redd v. ROP, 2018 Palau 8 ¶ 8 (App. Div.).

DIVISION 6 — OFFENSES AGAINST PUBLIC ORDER

Chapter 44 — Miscellaneous Offenses

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 44 read §§ 4400–4412, which has been renumbered to §§ 4401–4413 to conform with the Style of the Code.

Subchapter I entitled "Various Offenses" has been added to Chapter 44 of Title 17 of the Palau National Code as modified by RPPL 9-21. Former Chapter 43 of Title 17 of the Palau National Code entitled "Laser Act", which was not repealed nor amended by RPPL 9-21, has been renumbered as Subchapter II of Chapter 44 of Title 17 of the Palau National Code.

Subchapter I — Various Offenses

§ 4401. Definitions.

In this division, unless a different meaning is plainly required, or the definition is otherwise limited by this section:

(1) "animal" includes every living creature, except a human being.

(2) "equine animal" means an animal of or belonging to the family Equidae, including horses, ponies, mules, donkeys, asses, burros, and zebras.

(3) "facsimile" means a document produced by a receiver of signals transmitted over telecommunication lines, after translating the signals, to produce a duplicate of an original document.

(4) "necessary sustenance" means care sufficient to preserve the health and well-being of a pet animal, except for emergencies or circumstances beyond the reasonable control of the owner or caretaker of the pet animal, and includes but is not limited to the following requirements:

(A) food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;

(B) open or adequate access to water in sufficient quantity and quality to satisfy the animal's needs;

(C) access to protection from wind, rain, or sun;

(D) an area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health; provided that the area of confinement in a primary pet enclosure must:

(i) provide access to shelter;

(ii) be constructed of safe materials to protect the pet animal from injury;

(iii) enable the pet animal to be clean, dry, and free from excess waste or other contaminants that could affect the pet animal's health;

(iv) provide the pet animal with a solid surface or resting platform that is large enough for the pet animal to lie upon in a normal manner, or, in the case of a caged bird a perch that is large enough for the bird to perch upon in a normal manner;

(v) provide sufficient space to allow the pet animal to, at minimum, do the following:

(I) easily stand, sit, lie, turn around, and make all other normal body movements in a comfortable manner for the pet animal, without making physical contact with any other animal in the enclosure; and

(II) interact safely with other animals within the enclosure; and

(E) veterinary care when needed to prevent suffering.

(5) "obstructs" means renders impassable without unreasonable inconvenience or hazard.

(6) "pet animal" means a dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds (passeriformes, piciformes, and psittaciformes only) so long as not bred for consumption.

(7) "primary pet enclosure" means any kennel, cage, or structure used to restrict only a pet animal as defined in this section to a limited area of space, and does not apply to the confinement of any animals that are raised for food, such as any poultry that is raised for meat or egg production and livestock, rabbits, or pigs that are raised specifically for meat production because these animals are not pets when raised for meat or egg production.

(8) "private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

(9) "public" means affecting or likely to affect a substantial number of persons.

(10) "public place" means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

(11) "fecord", for the purposes of 17 PNC Section 4413 of this Penal Code means to videotape, film, photograph, or archive electronically or digitally.

(12) "torment" means fail to attempt to mitigate substantial bodily injury with respect to a person who has a duty of care to the animal.

(13) "torture" includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4400] modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4402. Disorderly conduct.

(a) A person commits the offense of disorderly conduct if, with intent to cause physical inconvenience or alarm by a member or members of the public, or recklessly creating a risk thereof, the person:

(1) engages in fighting or threatening, or in violent or tumultuous behavior; or

(2) makes unreasonable noise; or

(3) subjects another person to offensively coarse behavior or abusive language that is likely to provoke a violent response; or

(4) creates a hazardous or physically offensive condition by any act that is not performed under any authorized license or permit; or

(5) impedes or obstructs, for the purpose of begging or soliciting alms, any person in any public place or in any place open to the public.

(b) Noise is unreasonable, within the meaning of subsection (a)(2), if considering the nature and purpose of the person's conduct and the circumstances known to the person, including the nature of the location and the time of the day or night, the person's conduct involves a gross deviation from the standard of conduct that a law-abiding citizen would follow in the same situation; or the failure to heed the admonition of a police officer that the noise is unreasonable and should be stopped or reduced. The renter, resident, or owner-occupant of the premises who knowingly or negligently consents to unreasonable noise on the premises shall be guilty of a noise violation.

(c) Disorderly conduct is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4401] modified.

Supreme Court Cases
Olkeriil v. Republic of Palau, 2023 Palau 4 ¶¶ 3, 14 (App. Div.).

§ 4403. Refusal to provide ingress or egress; penalty.

(a) Whenever ingress to or egress from any public or private place is obstructed by any person or persons in such manner as not to leave a free passageway for persons and vehicles lawfully seeking to enter or leave such place, any law enforcement officer shall direct such person or persons to move so as to provide and maintain a free and unobstructed passageway for persons and vehicles lawfully going into or out of such place. It shall be unlawful for any person to refuse or willfully fail to move as directed by such officer.

(b) As used in this section, "law enforcement officer" means any public servant, whether employed by the Republic of Palau or political subdivision thereof, or any state thereof, vested by law with a duty to maintain public order, to make arrests for offenses, or to enforce the criminal laws, whether the duty extends to all offenses or is limited to a specific class of offenses.

(c) Any person who refuses or willfully fails to move as directed by such officer shall be fined not more than two hundred dollars ($200) or imprisoned not more than six months, or both.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4402] modified.

§ 4404. Failure to disperse.

(a) When six or more persons are participating in a course of disorderly conduct likely to cause substantial harm or serious inconvenience, annoyance, or alarm, a law enforcement officer may order the participants and others in the immediate vicinity to disperse.

(b) A person commits the offense of failure to disperse if the person knowingly fails to comply with an order made pursuant to subsection (a).

(c) Failure to disperse is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4403] modified.

§ 4405. Riot.

(a) A person commits the offense of riot if the person participates with five or more other persons in a course of disorderly conduct:

(1) with intent to commit or facilitate the commission of a felony; or

(2) when the person or any other participant to the person's knowledge uses or intends to use a firearm or other dangerous instrument in the course of the disorderly conduct.

(b) Riot is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4404] modified.

§ 4406. Unlawful assembly.

(a) A person commits the offense of unlawful assembly if:

(1) the person assembles with five or more other persons with intent to engage in conduct constituting a riot; or

(2) being present at an assembly that either has or develops a purpose to engage in conduct constituting a riot, the person remains there with intent to advance that purpose.

(b) Unlawful assembly is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4405] modified.

§ 4407. Obstructing.

(a) A person commits the offense of obstructing if, having no legal privilege to do so, the person knowingly or recklessly obstructs any highway or public passage, whether alone or with others.

(b) A person in a gathering commits the offense of obstructing if the person refuses to obey a reasonable request or order by a law enforcement officer to move:

(1) to prevent obstruction of a highway or other public passage; or

(2) to maintain public safety by dispersing those gathered in dangerous proximity to a public hazard.

(c) An order to move under subsection (b)(1), addressed to a person whose speech or other lawful behavior attracts an obstructing audience, is not reasonable if the obstruction can be readily remedied by police control.

(d) A person is not guilty of violating subsection (a) solely because persons gather to hear the person speak or because the person is a member of such a gathering.

(e) Obstructing is a misdemeanor if the person persists in the conduct specified in subsection (a) after a warning by a law enforcement officer; otherwise it is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4406] modified.

§ 4408. Harassment.

(a) A person commits the offense of harassment if, with intent to harass, annoy, or alarm any other person, that person:

(1) strikes, shoves, kicks, or otherwise touches another person in an offensive manner or subjects the other person to offensive physical contact;

(2) insults, taunts, or challenges another person in a manner likely to provoke an immediate violent response or that would cause the other person to reasonably believe that the actor intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another;

(3) repeatedly makes telephone calls, facsimile transmissions, or any form of electronic communication defined as "any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, including electronic mail transmissions," without purpose of legitimate communication;

(4) repeatedly makes a communication anonymously or at an extremely inconvenient hour;

(5) repeatedly makes communications, after being advised by the person to whom the communication is directed that further communication is unwelcome; or

(6) makes a communication using offensively coarse language that would cause the recipient to reasonably believe that the actor intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another.

(b) Harassment is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4407] modified.

§ 4409. Desecration.

(a) A person commits the offense of desecration if the person intentionally desecrates:

(1) any public monument or structure; or

(2) a place of worship or burial; or

(3) in a public place the national flag or any other object of veneration by a substantial segment of the public.

(b) "desecrate" means defacing, damaging, polluting, or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover the defendant's action.

(c) Desecration is a misdemeanor.

(d) Any person convicted of committing the offense of desecration shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than ten thousand dollars ($10,000), or both.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4408], modified.

§ 4410. Abuse of a corpse.

(a) A person commits the offense of abuse of a corpse if, except as authorized by law, the person treats a human corpse in a way that the person knows would outrage ordinary family sensibilities.

(b) Abuse of a corpse is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4409] modified.

§ 4411. Cruelty to animals in the first degree.

(a) A person commits the offense of cruelty to animals in the first degree if the person intentionally or knowingly:

(1) tortures, mutilates, or poisons or causes the torture, mutilation, or poisoning of any pet animal or equine animal resulting in serious bodily injury or death of the pet animal or equine animal; or

(2) kills or attempts to kill any pet animal belonging to another person, without first obtaining legal authority or the consent of the pet animal's owner.

(b) Subsection (a)(1) shall not apply to:

(1) accepted veterinary practices;

(2) activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(3) cropping or docking as customarily practiced.

(c) Subsection (a)(2) shall not apply to:

(1) humane euthanasia of any animal by an animal control officer, duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals, or duly authorized governmental agency; or

(2) conduct that the actor believes to be necessary to avoid an imminent harm or evil to the actor, another person, or an animal; provided that the harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by this section and is justifiable as provided in 17 PNC Section 303 of this Penal Code for choice of evils; provided further that, for purposes of this paragraph, as the justification described in 17 PNC Section 303 of this Penal Code shall also apply to conduct that the actor believes to be necessary to avoid an imminent harm or evil to an animal.

(d) Whenever any pet animal or equine animal is so severely injured that there is no reasonable probability that its life can be saved, the animal may be immediately destroyed without creating any offense under this section.

(e) Cruelty to animals in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4410] modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 4412. Cruelty to animals in the second degree.

(a) A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:

(1) overdrives, overloads, tortures, torments, beats, causes substantial bodily injury to, or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal;

(2) deprives a pet animal of necessary sustenance or causes such deprivation;

(3) mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests;

(4) carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner;

(5) confines or causes to be confined, in a kennel or cage, any pet animal in a cruel or inhumane manner;

(6) tethers, fastens, ties, or restrains a dog to a doghouse, tree, fence, or any other stationary object by means of a choke collar, pinch collar, or prong collar; provided that a person is not prohibited from using such restraints when walking a dog with a hand-held leash or while a dog is engaged in a supervised activity; or

(7) assists another in the commission of any act specified in subsections (a)(1) through [(a)](6).

(b) Subsections (a)(1), (2), (3), (5), (6), and (7) shall not apply to:

(1) accepted veterinary practices; or

(2) activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Whenever any animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed without creating any offense under this section.

(d) Cruelty to animals in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4411], modified.

Notes
The bracketed [(a)] in subsection (a)(7) above read "(1)" in the original legislation and was changed accordingly as complying with likely intention of legislation.

§ 4413. Violation of privacy.

(a) A person commits the offense of violation of privacy if, except in the execution of a public duty or as authorized by law, the person intentionally:

(1) trespasses on property for the purpose of subjecting anyone to eavesdropping or other surveillance in a private place;

(2) peers or peeps into a window or other opening of a dwelling or other structure adapted for sojourn or overnight accommodations for the purpose of spying on the occupant thereof or invading the privacy of another person with a lewd or unlawful purpose, under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed;

(3) trespasses on property for the sexual gratification of the actor;

(4) installs or uses, or both, in any private place, without consent of the person or persons entitled to privacy therein, any means or device for observing, recording, amplifying, or broadcasting sounds or events in that place, including another person in a stage of undress or sexual activity; or

(5) installs or uses outside a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in that place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein.

(b) This section shall not apply to any dissemination, distribution, or transfer of images subject to this section by an electronic communication service provider or remote storage service in the ordinary course of its business.

(c) For the purpose of this section:

(1) "electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system.

(2) "electronic communication service" means any service that provides to users thereof the ability to send or receive wire or electronic communications.

(3) "electronic communication service provider" means any person engaged in the offering or sale of electronic communication services to the public.

(4) "electronic communication system" means any wire, radio, electromagnetic, photo-optical, or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications, including e-mail, web hosting, multimedia messaging services, and remote storage services offered by an electronic communication service provider.

(5) "remote storage service" means the provision to the public of computer storage or processing services by means of an electronic communication system.

(6) "intimate areas" means any portion of a person's underwear, pubic area, anus, buttocks, vulva, genitals, or female breast.

(7) "intimate areas underneath clothing" does not include intimate areas visible through a person's clothing or intimate areas exposed in public.

(8) "public place" means an area generally open to the public, regardless of whether it is privately owned, and includes but is not limited to streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, buses, tunnels, buildings, stores, and restaurants.

(d) Violation of privacy is a misdemeanor. In addition to any penalties the court may impose, the court may order the destruction of any recording made in violation of this section.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 44 § 4412] modified.

Subchapter II — Laser Act

Subchapter Notes

Notes
Former Chapter 43 of Title 17 of the Palau National Code entitled "Laser Act", which was not repealed nor amended by RPPL 9-21, has been renumbered as Subchapter II of Chapter 44 of Title 17 of the Palau National Code, §§ 4421–4427.

§ 4421. Definitions.

(a) Unless otherwise indicated in this chapter, the following definitions shall apply:

(1) "aircraft" means a machine or device that is used, or intended to be used, for flight in the air and is capable of transporting persons through the airspace.

(2) "laser" means a device that emits a beam of ultraviolet, visible or infrared light due to stimulated emission.

Section Notes

Sources
RPPL 8-41 § 2, modified.

Notes
Formerly codified at 17 PNC § 4301 and now recodified as 17 PNC § 4421 per Code Commission.

§ 4422. Unlawful manufacture, sale, or possession of a laser.

(a) No person shall intentionally or knowingly manufacture, sell, purchase, or possess a laser that is categorized as Class 3R under the revised system of classifying lasers, or as Class III under the old system of the American National Standards Institute (ANSI), and higher, except as authorized in Section 4424(b)(1) of this subchapter.

(b) Unlawful manufacture, sale or possession of a laser is a misdemeanor.

Section Notes

Sources
RPPL 8-41 § 3, modified.

Notes
Formerly codified at 17 PNC § 4302 and now recodified as 17 PNC § 4422 per Code Commission.

Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4423. Unlawful use of a laser.

(a) A person commits the offense of unlawful use of a laser if he or she:

(1) intentionally, knowingly or recklessly discharges a laser at an occupied aircraft, automobile, or ocean vessel; or

(2) damages a streetlight by intentionally, knowingly or recklessly discharging a laser at the streetlight.

(b) Unlawful use of a laser is a misdemeanor.

Section Notes

Sources
RPPL 8-41 § 4, modified.

Notes
Formerly codified at 17 PNC § 4303 and now recodified as 17 PNC § 4423 per Code Commission.

§ 4424. Exemption; failure to register a laser.

(a) Section 4422 of this chapter shall not apply to the use of laser pointers that emit five (5) micro watts per square centimeter of light that are utilized for educational purposes by individuals engaged in an organized meeting or training class, or during the normal course of work or trade activities.

(b) Section 4422 of this chapter shall not apply to the purchase, possession and use of a laser utilized for fishing purposes, including but not limited to, finding buoys at sea, provided that:

(1) Lasers categorized as Class 3R under the revised system of classifying lasers, or as Class III under the old system of the American National Standards Institute (ANSI), and higher, which are possessed for the limited purposes as set forth in subsection (b) above, shall be registered with the Bureau of Public Safety in such a manner that enables the Bureau of Public Safety to match an individual laser with the laser's owner.

(2) A person who intentionally or knowingly fails to register a laser as required by subsection (b)(1) above commits the offense of failure to register a laser.

(3) Failure to register a laser is a misdemeanor.

Section Notes

Sources
RPPL 8-41 § 5, modified.

Notes
Formerly codified at 17 PNC § 4304 and now recodified as 17 PNC § 4424 per Code Commission.

Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 4425. Penalty.

(a) Any person convicted of violating Section 4422(a) [or] Section 4423(a)(2) of this chapter shall be imprisoned for not more than thirty (30) days, or fined not more than one thousand dollars ($1,000.00), or both.

(b) Any person convicted of violating Section 4423(a)(1) of this chapter shall be imprisoned for not more than one (1) year, or fined not more than ten thousand dollars ($10,000.00), or both.

(c) Any person convicted of violating Section 4424(b) of this chapter shall be fined fifty dollars ($50.00), in addition to any other penalties that may apply under this chapter.

Section Notes

Sources
RPPL 8-41 § 6, modified.

Notes
Formerly codified at 17 PNC § 4305 and now recodified as 17 PNC § 4425 per Code Commission.

The bracketed [or] in subsection (a) replaced the word "and" in the original legislation.

Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 4426. Rules and Regulations.

The Minister of Justice shall promulgate new or amended rules and regulations necessary or appropriate to effectuate the provisions of this chapter.

Section Notes

Sources
RPPL 8-41 § 7, modified.

Notes
Formerly codified at 17 PNC § 4306 and now recodified as 17 PNC § 4426 per Code Commission.

§ 4427. Amnesty period.

There shall be a ninety (90) day amnesty period before enforcement of this chapter shall commence, during which time the public shall be made aware of the change in the law and persons now in possession of a laser that is categorized as Class 3R under the revised system of classifying lasers, or as Class III under the old system of the ANSI, may properly dispose of the laser by delivery to the local Bureau of Public Safety or register their laser with the Bureau of Public Safety if the possession and use of such laser falls under the exemptions set forth in Section 4424 (b) of this chapter without facing any of the penalties set forth in this chapter.

Section Notes

Sources
RPPL 8-41 § 8, modified.

Notes
Formerly codified at 17 PNC § 4307 and now recodified as 17 PNC § 4427 per Code Commission.

Section referenced in this section has been renumbered to conform with the Code numbering format.

Chapter 45 — Firearms Control Act

Chapter Notes

Notes
Former Chapter 33 of Title 17 of the Palau National Code entitled "Firearms Control Act" is renumbered as Chapter 45 of Title 17 of the Palau National Code by RPPL 9-21 § 4(c).

§ 4501. Short title.

This chapter may be cited as the "National Firearms Control Act".

Section Notes

Sources
RPPL 1-25 § 1(a), modified.
RPPL 9-21 § 4(c) and § 5 [Chapter 45 § 4500], modified, recodifies section from 17 PNC § 3301 to 17 PNC § 4501.

Cross-references
ROP Const. art. XIII, §§ 12, 13.

Supreme Court Cases
ROP v. Imeong, 7 ROP Intrm. 257 (Tr. Div. 1998).
ROP v. Ngiraboi, 2 ROP Intrm. 257 (1991).
Kazuo v. ROP, (Criminal Appeal No. 6-89).

§ 4502. Declaration of policy and legislative findings.

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

(1) The exclusive power to control and regulate the use, possession, manufacture, distribution and importation of firearms and ammunition is solely in the national government.

(2) The strict control and restriction on the use, possession, manufacture, distribution and importation of firearms and ammunition is designed to assure the public health, welfare and safety of the people as expressed in the provisions of Article XIII of the Constitution.

(3) The penalties for violating the vital interest of the people of Palau in controlling firearms and ammunition is constitutionally mandated and beyond purview of any branch or official of the national government.

Section Notes

Sources
RPPL 1-25 § 1(b), modified.
RPPL 9-21 § 4(c) and § 5 [Chapter 45 § 4501], modified, recodifies section from 17 PNC § 3302 to 17 PNC § 4502.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

Supreme Court Cases
Ngemaes v. ROP, 4 ROP Intrm. 250 (1994).

§ 4503. Definitions.

Unless a different meaning clearly appears in the context, in this chapter:

(1) "ammunition" means any projectile, including but not limited to bullets and buckshot along with its fuse and primer, if any, that is designed to be shot or expelled from a firearm.

(2) "armed forces personnel" means any person who is a member of a military unit which is a part of an official branch of the armed services.

(3) "firearm" means any device, by whatever name known, including but not limited to rifles, pistols and other types of guns, which is designed to or may be converted to shoot or expel any projectile by the action of any explosion, a release, or an expansion of gas; the term "Firearm" does not include devices designed solely for signaling, line throwing, spear fishing or industrial purposes, nor does it include blowguns or air guns.

(4) "import" or "importation" means the act of bringing goods and merchandise into Palau from a foreign country, including but not limited to the United States and other Micronesian entities.

(5) "knowingly" means that a person acts knowingly when, if the element of an offense involves the nature of his conduct, he is aware that his conduct is of that nature; if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result; if the element involves an attendant circumstance, he is aware of the existence of such circumstance.

(6) "law enforcement officer" means a sheriff, police officer, marshal or deputy marshal of the Palau National Judiciary, Postal Inspector, customs or immigration officer or any other municipal entity, or privately contracted armed security personnel certified by the Ship Registry Administrator and authorized by the President, whose duty it is to preserve the peace and enforce the laws in the Republic or any of its lawful subdivisions.

(7) "manufacture" means the process or operation of producing goods or material by hand, machinery or other agency.

(8) "person" means any natural person, corporation, partnership, or any other entity cognizable by law.

(9) "possess" means to have in one's actual or constructive custody or control.

Section Notes

Sources
RPPL 1-25 § 2, modified.
RPPL 5-16 § 2 amends paragraph (6).
RPPL 9-17 § 2 amends paragraph (6).
RPPL 9-21 § 4(c) and § 5 [Chapter 45 § 4502], modified, recodifies section from PNC § 3303 to 17 PNC § 4503.
RPPL 9-36 § 11 amends paragraph (6).

Notes
The Code Commission has made technical changes to the designations within this section and to put the terms in alphabetical order to conform to the Style of the Code.

Supreme Court Cases
Noah v. ROP, 11 ROP 227, 230 (2004).
ROP v. Ngiraboi, 2 ROP Intrm. 257, 270 (1991).

§ 4504. Surrender of firearms.

Every person who possesses, owns or has in his custody or control any firearm(s) or any ammunition shall surrender such firearm(s) or ammunition to the President or his duly authorized representative(s). The owners or possessors of firearms or ammunition so surrendered shall be paid a reasonable compensation therefor.

Section Notes

Sources
RPPL 1-25 § 3, modified.
RPPL 9-21 § 4(c) and § 5 [Chapter 45 § 4503], modified, recodifies section from PNC § 3304 to 17 PNC § 4504.

§ 4505. Reasonable compensation.

The President shall have the authority to determine what constitutes reasonable compensation, and shall make such determinations in a fair and equitable manner consistent with the requirements of due process.

Section Notes

Sources
RPPL 1-25 § 4, modified.
RPPL 9-21 § 4(c) and § 5 [Chapter 45 § 4504], modified, recodifies section from 17 PNC § 3305 to 17 PNC § 4505.

Cross-references
ROP Const. art. IV, § 6.

§ 4506. Prohibition of firearms and ammunition; penalty.

(a) Any person who knowingly shall import, possess, use, manufacture or have in his custody or control, any firearm shall be guilty of a felony and upon conviction thereof shall be fined not more than five thousand dollars ($5,000), receive no compensation for the firearm(s), and be imprisoned for not less than fifteen (15) years.

(b) Any person who knowingly shall import, possess, use, manufacture or have in his custody or control any ammunition shall be guilty of a felony and upon conviction thereof shall be fined not more than one thousand dollars ($1,000), receive no compensation for such ammunition, or be imprisoned not more than five (5) years or all of these.

Section Notes

Sources
RPPL 1-25 § 5.
RPPL 9-21 § 4(c) and § 5 [Chapter 45 § 4505], modified, recodifies section from PNC § 3306 to 17 PNC § 4506.

Notes
The sentencing provisions of RPPL 1-25, § 5(a) (§ 4506(a) herein) and art. XV, §§ 12 and 13 of the Constitution of the Republic of Palau relating to the unlawful possession of firearms was found to be in conflict with the Trusteeship Agreement and deemed not yet in force and effect while Palau remained governed by the Trust Territory of the Pacific Islands. This provision came into effect upon termination of the Trusteeship in May 1994. *Cf. Kazuo v. Republic of Palau*, Special Proceeding No. 7-83 for Writ of Prohibition in the Appellate Division of the Supreme Court (Crim. Case No. 184-83) and *Yano v. Republic of Palau*, Special Proceeding No. 8-83 for Writ of

Prohibition in the Appellate Division of the Supreme Court (Crim. Case No. 284-83). Decision rendered on November 13, 1984, in both cases.

Supreme Court Cases
Teriong v. ROP, 15 ROP 88, 89, 90, 91 (2008).
Noah v. ROP, 11 ROP 227, 228, 230, 232, 233 (2004).
Ongalibang v. ROP, 8 ROP Intrm. 219, 220 (2000).
Kotaro v. ROP, 7 ROP Intrm. 57, 62 (1998).
King v. ROP, 6 ROP Intrm. 131, 131 (1997).
Blailes and Wasisang v. ROP, 5 ROP Intrm. 36 (1994).
Emaudiong v. Arbedul, 5 ROP Intrm. 31 (1994).
ROP v. Wolff, 4 ROP Intrm. 278, 281 (Tr. Div. 1993).
Ngemaes v. ROP, 4 ROP Intrm. 250, 250-51 (1994).
Kazuo v. ROP, 3 ROP Intrm. 343, 343-47 (1993).
ROP v. Ngiraboi, 2 ROP 257, 258, 260, 265, 267, 270 (1991).
ROP v. Sakuma, 2 ROP Intrm. 23, 27, 36-41 (1990).
ROP v. Singeo, 1 ROP Intrm. 551, 553, 558 (1989).
ROP v. Gibbons, 1 ROP Intrm. 547A (1988).

§ 4507. Possession of firearms and ammunition by law enforcement officers and members of the armed forces.

(a) A law enforcement officer may possess a firearm while acting in an official capacity only with express written permission of the President or the state chief executive in the case of a state law enforcement officer within the state jurisdiction upon approval of the same by the President. Such written permission shall express the purpose and time of authorized possession; but, in no case, shall any law enforcement officer possess a firearm while on off-duty hours. The President and each state chief executive shall submit a quarterly report to the presiding officers of the Olbiil Era Kelulau disclosing the names of all law enforcement officers who were given such permission and the circumstances under which they were given.

(b) No law enforcement officer certified by the Ship Registry Administrator shall have in his or her possession any firearm within the Republic of Palau. In accordance with International Maritime Organization guidelines regarding use of firearms and ammunition, the President may impose such other terms and conditions deemed appropriate for law enforcement officers aboard ships registered with the Palau Ship Registry to maintain and preserve peace and security of the passengers, crew and any other person aboard ships.

(c) Any law enforcement officer or armed forces personnel in violation of these provisions shall be subject to the provisions of Section 4506 of this chapter.

(d) Nothing in this chapter shall apply in any way to United States military, law enforcement or any other authorized personnel lawfully within the Republic during the term of the United Nations Trusteeship Agreement, or during the term of any other Agreement which may lawfully exist between the United States and the Republic providing for the presence in the Republic of United States military, law enforcement or other authorized personnel.

Section Notes

Sources
RPPL 1-25 § 6, modified.
RPPL 9-17 § 3 amends subsection (b).
RPPL 9-21 § 4(c) and § 5 [Chapter 45 § 4506], modified, recodifies section from 17 PNC § 3307 to 17 PNC § 4507.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

Supreme Court Cases
Noah v. ROP, 11 ROP 227, 232, 233 (2004).
Kotaro v. ROP, 7 ROP Intrm. 57, 61 (1998).
ROP v. Wolff, 4 ROP Intrm. 278, 281 (Tr. Div. 1993).

§ 4508. Disposal of firearms and ammunition; records.

The President shall maintain a complete and accurate record of all firearms and ammunition surrendered, the amount of awarded compensation for each firearm or ammunition, and disposition of each firearm and ammunition. The President shall dispose of all firearms and ammunition provided that such disposal shall be made to prevent any firearm or ammunition from being possessed, used or coming within the custody or control of any person within the Republic. Such ammunition and firearms may be sold, and a complete record maintained and the money deposited in the National Treasury to any person outside of the Republic who may lawfully purchase such ammunition and firearms. The Public Auditor and the Budget Officer of the Olbiil Era Kelulau shall make quarterly audits of all books and records of such sales.

Section Notes

Sources
RPPL 1-25 § 7, modified.
RPPL 9-21 § 4(c) and § 5 [Chapter 45 § 4507], modified, recodifies section from 17 PNC § 3308 to 17 PNC § 4508.

§ 4509. Amnesty.

Every person who shall voluntarily surrender any firearm or ammunition pursuant to Section 4504 of this chapter and prior to January 1, 1982 shall not be subject to the provisions of Section 4506 of this chapter, nor shall such persons be subject to prosecution under the provisions of the Trust Territory Weapons Control Act for the possession, importation, manufacture or use of such firearms.

Section Notes

Sources
RPPL 1-25 § 8, modified.
RPPL 9-21 § 4(c) and § 5 [Chapter 45 § 4508], modified, recodifies section from 17 PNC § 3398 to 17 PNC § 4509.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

Supreme Court Cases
Noah v. ROP, 11 ROP 227, 233 (2004).

§ 4510. Conflict of law.

Any other provisions of law which conflict with this chapter shall be deemed superseded and void to the extent of the conflict.

Section Notes

Sources
RPPL 1-25 § 9, modified.
RPPL 9-21 § 4(c) and § 5 [Chapter 45 § 4509], modified, recodifies section from 17 PNC § 3310 to 17 PNC § 4510.

Chapter 46 — Trust Territory Weapons Control Act

Chapter Notes

Notes
Former Chapter 34 of Title 17 of the Palau National Code entitled "Trust Territory Weapons Control Act" is renumbered as Chapter 46 of Title 17 of the Palau National Code by RPPL 9-21 § 4 (d).

While the Trust Territory Weapons Control Act is set forth in its entirety herein, it must be noted that this Act is superseded and void to the extent it is in conflict with the provisions of the National Firearms Control Act of Title 17, Chapter 45 of this Code. Its continuing effect, therefore, is mainly with regards to dangerous devices as defined in Section 4604.

§ 4601. Short title.

This chapter is known and may be cited as the "Trust Territory Weapons Control Act."

Section Notes

Sources
(P.L. No. 4C-13, § 1.) 63 TTC § 551.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4600], modified, recodified section from 17 PNC § 3401 to 17 PNC § 4601.

§ 4602. Manufacture, sale or possession of firearm and dangerous devices.

No person shall manufacture, purchase, sell, possess or carry any firearm, dangerous device or ammunition other than as hereinafter provided.

Section Notes

Sources
(P.L. No. 4C-13, § 2.) 63 TTC § 552.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4601], modified, recodified section from 17 PNC § 3402 to 17 PNC § 4602.

§ 4603. Exemptions from provisions of chapter.

This chapter shall not apply to:

(1) Law enforcement officers while engaged on official duty except to the extent that particular provisions of this chapter are expressly made applicable to them.

(2) Firearms which are in unserviceable condition and which are incapable of being fired or discharged and which are kept as curios, ornaments or for their historical significance or value.

(3) Weapons or other dangerous devices which are not firearms and which are kept as ornaments, curios, or objects of historical or archaeological interest; provided, that the article or articles referred to herein are kept or displayed only in private homes, museums, or in connection with public exhibitions.

(4) Persons in the armed forces of the United States, whenever such persons are engaged on official duty except to the extent that particular provisions of this chapter are expressly made applicable to them.

(5) Persons designated by the Attorney General as crocodile hunters; provided, however, that not more than one person shall be so designated at any one time; and provided

further that the Attorney General shall by regulation limit the size and type of weapons which may be used by such crocodile hunter.

Section Notes

Sources
(P.L. No. 4C-13, § 3; P.L. No. 4C-10, § 3; P.L. No. 4C-40.) 63 TTC § 553, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4602], modified, recodified section from 17 PNC § 3403 to 17 PNC § 4603.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4604. Definitions.

[In this chapter, the following terms have the following meanings:]

(1) "automatic weapon" means a weapon of any description irrespective of size, by whatever name designated or known, loaded or unloaded, from which may be repeatedly or automatically discharged a number of bullets contained in a magazine, ribbon or other receptacle, by one continued movement of the trigger or firing mechanism.

(2) "carry" means having on one's person or in a motor vehicle or other conveyance.

(3) "dangerous device" means any explosive, incendiary or poison gas bomb, grenade, mine or similar device, switch or gravity blade knife, blackjack, sandbag, metal, wooden or shark's tooth knuckles, dagger, any instrument designed or redesigned for use as a weapon, or any other instrument which can be used for the purpose of inflicting bodily harm and which under the circumstances of its possession serves no lawful purpose.

(4) "firearm" means any device, by whatever name known, which is designed or may be converted to expel or hurl a projectile or projectiles by the action of an explosion, a release, or an expansion of gas, including but not limited to guns, except a device designed or redesigned for use solely as a signaling, line throwing, spearfishing, or industrial device, or a device which hurls a projectile by means of the release or expansion of carbon dioxide or air.

(5) "gun" means a handgun or long gun.

(6) "handgun" means a pistol or revolver with an overall length of less than 26 inches.

(7) "long gun" means a rifle with one or more barrels more than 18 inches in length.

(8) "person" means any natural person, corporation, partnership, or other business entity.

(9) "semi-automatic weapon" means a weapon of any description irrespective of size, by whatever name designated or known, loaded or unloaded, from which may be repeatedly or automatically discharged a number of bullets contained in a magazine, ribbon or other receptacle by a like number of movements of the trigger or firing mechanism without recocking or resetting the trigger or firing mechanism.

(10) "transfer" means sale, gift, purchase or any other means by which ownership or temporary rights of use and control are conveyed or shifted from one person to another.

Section Notes

Sources
(P.L. No. 4C-13, § 4; P.L. No. 4C-40, § 2; P.L. No. 5-61, § 1.) 63 TTC § 554, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4603], modified, recodified section from 17 PNC § 3443 to 17 PNC § 4604.

Notes
The Code Commission put terms into alphabetical order. The Code Commission added the bracketed location clause based on 63 TTC Chapter 8 and redesignated the subsections as paragraphs to comply with the Style of the Code.

§ 4605. Identification cards.

(a) No person shall acquire or possess any firearm, dangerous device or ammunition unless he holds an identification card issued pursuant to this chapter. The identification card is evidence of the holder's eligibility to possess and use or carry firearms, dangerous devices, or ammunition.

(b) Identification cards shall be issued only by the Office of the Attorney General pursuant to regulations made by the Office of the Attorney General in the manner which is or may be provided by law. The identification card shall have on its face all of the following:

(1) the name and address of the holder.

(2) the sex, height and weight of the holder.

(3) the birth date of the holder.

(4) the date of expiration for the card which shall be two years from the date of issue.

(5) a photograph of the holder taken within ten (10) days prior to issuance.

(6) an endorsement setting forth the extent of the holder's eligibility to possess, use and carry firearms, dangerous devices, or ammunition.

(7) the number of the identification card.

(c) An applicant for an identification card shall make application therefor on a form approved by the Office of the Attorney General and shall supply such information as may be necessary to afford the issuing agency reasonable opportunity to ascertain the facts required to appear on the face of the identification card, and to determine whether the applicant complies with all requirements of this chapter to possess and use, or carry, firearms, dangerous devices, or ammunition, as the case may be.

(d) No identification card shall issue until fifteen (15) days after application therefor, and unless the issuing agency is satisfied that the applicant may lawfully possess and use, or carry firearms, dangerous devices, or ammunition of the type or types enumerated on the identification card. Unless the application for use and possession is denied, the identification card shall issue within sixty (60) days from the date of application.

(e) No person shall be issued an identification card if he has been:

(1) acquitted of any criminal charge by reason of insanity.

(2) adjudicated mentally incompetent.

(3) treated in a hospital for mental illness, drug addiction or alcoholism.

(4) convicted of a crime of which actual or attempted personal injury or death is an element.

(5) convicted of a crime in connection with which firearms or dangerous devices were used or found in his possession.

(6) convicted of a crime of which the use, possession or sale of narcotics or dangerous drugs is an element.

(f) No person shall be issued an identification card if he has a physical condition or impairment which makes him unable to use a firearm or dangerous device with proper control.

(g) Any person suffering from a physical or mental defect, condition, illness or impairment which would make him ineligible for an identification card pursuant to this section may submit the certificate of a physician licensed to practice in the Trust Territory to the issuing agency or officer. If the certificate states that it is the subscribing physician's best opinion that the defect, condition, illness or impairment does not make the applicant incapable of possessing and using a firearm or dangerous device without danger to the public safety, the identification card may be issued. But no such card shall be valid for a period longer than six months.

(h) Any person who is ineligible for an identification card by reason of conviction of crime may be issued such a card if his most recent discharge from probation or parole or the termination of his most recent sentence, whichever is later, is more than ten (10) years prior to the time of application for the identification card and if the issuing agency finds that his record, taken as a whole, does not indicate that his possessing and using, or carrying, a firearm or dangerous device, as the case may be, are not likely to constitute a special danger to the public safety.

(i) The holder of an identification card shall have it on or about his person at all times when he is carrying or using a firearm or dangerous device and shall display the card upon the request of any law enforcement official.

(j) A duplicate identification card may be issued to the holder of a lost, destroyed or defaced identification card upon proof of such loss, destruction or defacement as the Office of the Attorney General may require, upon payment of the fee required by Section 4630 of this chapter and upon surrender of any remaining portion of the original card. Notice shall be given the Office of the Attorney General by the holder within forty-eight (48) hours of his discovery of such loss, defacement or destruction. The holder shall notify the Office of the Attorney General of any change of name or address from those appearing upon the identification card within forty-eight (48) hours of such change.

(k) A person who is neither a citizen nor resident of the Trust Territory shall not be eligible for an identification card, except upon receiving special permission from the Attorney General.

Section Notes

Sources
(P.L. No. 4C-13, § 5.) 63 TTC § 555, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4604], modified, recodified section from 17 PNC § 3405 to 17 PNC § 4605.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4606. Identification card prerequisite to purchase, possession and use; prima facie evidence of possession.

(a) No person shall purchase, possess or use a firearm, dangerous device, or ammunition unless he is the holder of an identification card issued pursuant to this chapter evidencing the eligibility of such person to purchase, possess and use a firearm, dangerous device or ammunition. Such person shall be at least twenty-one (21) years of age.

(b) Where a firearm, dangerous device, or ammunition is found in a vehicle or vessel, it shall be prima facie evidence that such firearm, dangerous device, or ammunition is in the possession of the occupant if there is but one. If there is more than one occupant, it shall be prima facie evidence that it is in the possession of all, except under the following circumstances:

(1) where it is found upon the person of one of the occupants;

(2) where the vehicle or vessel is not a stolen one and the firearm, dangerous device, or ammunition is out of view in a glove compartment, automobile trunk, or other enclosed customary depository, in which case it is prima facie evidence that such firearm, dangerous device, or ammunition is in the possession of the occupant or occupants who own or have authority to operate the vehicle or vessel;

(3) where, in the case of a taxicab, the firearm, dangerous device, or ammunition is found in the passengers' portion of the vehicle, it shall be prima facie evidence that it is in the possession of all the passengers, if there are any, and, if not, that it is in the possession of the driver.

Section Notes

Sources
(P.L. No. 4C-13, § 6; P.L. No. 5-61, § 2.) 63 TTC § 556, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4605], modified, recodified section from 17 PNC § 3406 to 17 PNC § 4606.

§ 4607. Carrying firearms.

No person shall carry a firearm unless he has in his immediate possession a valid identification card, and is carrying the firearm unloaded in a closed case or other securely wrapped or closed package or container, or locked in the trunk of his vehicle while en route to or from a target range, or area where he hunts, or takes part in other sports involving firearms, or carries the firearm in plain sight on his person while actively engaged in hunting or sports involving the use of firearms.

Section Notes

Sources
(P.L. No. 4C-13, § 7.) 63 TTC § 557, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4606], modified, recodified section from 17 PNC § 3407 to 17 PNC § 4607.

§ 4608. New residents, temporary residents and visitors of the Trust Territory.

Visitors, new residents, and temporary residents in the Trust Territory shall not import, transport, purchase, use or possess any firearm, dangerous device or ammunition in the Trust Territory without an identification card issued pursuant to this chapter. Any person who possesses any firearms, dangerous devices, or ammunition shall, before or immediately upon his entrance into the Trust Territory, turn it in to the Attorney General's office or the chief of police of any district

of the Trust Territory. Such firearm, dangerous device or ammunition shall be returned to such person upon his being issued an identification card pursuant to the provisions of this chapter or upon his departure from the Trust Territory.

Section Notes

Sources
(P.L. No. 4C-13, § 8.) 63 TTC § 558, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4607], modified, recodified section from 17 PNC § 3408 to 17 PNC § 4608.

§ 4609. Law enforcement officers.

(a) Possession, use and carriage of firearms, ammunition and dangerous devices by law enforcement officers derives from the laws governing the powers, functions and organization of the police and other organized forces of peace officers. Eligibility of law enforcement officers to possess, use and carry firearms, ammunition or dangerous devices while on duty is not subject to the holding of identification cards or any other qualifications prescribed in this chapter or in regulations pursuant thereto.

(b) Transfer of any firearm from or to a law enforcement officer or agency shall, except as provided in subsection (a) of this section, be subject to the provisions of this chapter and regulations made pursuant thereto.

(c) The head of a law enforcement agency of the Trust Territory or any subdivision thereof shall furnish to the Office of the Attorney General the names, addresses, ranks and badge numbers or similar identification of each person on his force who is authorized to possess, use and carry firearms in the course of his official duty. Upon the occurrence of any changes in personnel to whom this subsection applies, the head of the law enforcement agency shall inform the Office of the Attorney General promptly of the change.

(d) Whenever a law enforcement officer is not engaged in official duties, this chapter shall be applicable to him in the same manner and to the same extent as to any other person.

Section Notes

Sources
(P.L. No. 4C-13, § 9.) 63 TTC § 559, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4608], modified, recodified section from 17 PNC § 3409 to 17 PNC § 4609.

§ 4610. Licenses for transfer; required.

(a) No dealer, manufacturer or wholesaler shall transfer firearms, dangerous devices or ammunition except pursuant to a license therefor as provided in this section.

(b) Any person, firm, corporation, association or other entity proposing to engage in the business of selling firearms, ammunition, and dangerous devices at retail shall apply for a dealer's license. The application shall be on a form approved by the Office of the Attorney General and shall contain the following information:

(1) the name and address of the applicant, including the address of each separate location within the Trust Territory at which the applicant proposes to do business pursuant to the license; and

(2) if the applicant is a partnership or association, the names and addresses of the partners or associates, or if the applicant is a corporation, the names and addresses of the officers and directors; and

(3) such other information bearing on the applicant's ability to operate the business in a manner consonant with the public safety as the Office of the Attorney General may require.

Section Notes

Sources
(P.L. No. 4C-13, § 10.) 63 TTC § 560, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4609], modified, recodified section from 17 PNC § 3410 to 17 PNC § 4610.

§ 4611. Same; issuance and renewal of dealer's license.

(a) Upon receipt of a proper application and payment of the prescribed fee, the Office of the Attorney General shall within 60 days issue a dealer's license to an applicant, if he is found to be eligible therefor pursuant to this chapter and any applicable regulations of the Attorney General. Such regulations shall place a reasonable limit on number of dealers. The license shall list the types of firearms, ammunition, and dangerous devices which the dealer has been authorized to offer for sale.

(b) A license issued pursuant to this section shall be valid for one year from the date of its issuance, unless sooner cancelled, suspended or revoked. A license shall bear the expiration date thereof on its face.

(c) A license issued pursuant to this section may be renewed annually upon application by the holder made on a form approved by the Office of the Attorney General. Eligibility for renewal shall be on the same terms and conditions as for an original license, except that renewal also may be denied on account of violation of this chapter or regulations of the Office of the Attorney General made pursuant thereto or for any conduct in the operation of the applicant's business which gives the Office of the Attorney General grounds to believe that the applicant will no longer operate in a manner consonant with the public safety.

Section Notes

Sources
(P.L. No. 4C-13, § 11.) 63 TTC § 561, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4610], modified, recodified section from 17 PNC § 3411 to 17 PNC § 4611.

§ 4612. Same; display; conduct of dealer's business.

The holder of a dealer's license shall:

(1) Display his license in a conspicuous place at all times at the establishment described in the license. If a dealer as more than one place of business at which he sells firearms, dangerous devices and ammunition or any of them, he shall display in the same manner a certified copy of his license at each such additional place of business.

(2) Keep the records and file the reports required by this chapter and regulations made pursuant thereto.

(3) Display no firearms, dangerous devices or ammunition in any place where they can be seen from outside the premises.

(4) Keep all firearms, dangerous devices and ammunition in a securely locked place at all times except when they are actually being shown to a customer or prospective customer or when actually being repaired or otherwise worked on.

(5) Permit only employees who are holders of identification cards making them eligible to purchase, possess and use firearms, ammunition or dangerous devices, to have access to firearms, dangerous devices or ammunition.

Section Notes

Sources
(P.L. No. 4C-13, § 12.) 63 TTC § 562, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4611], modified, recodified section from 17 PNC § 3412 to 17 PNC § 4612.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4613. Records and reports by dealers.

(a) Every licensed dealer shall maintain records containing an inventory of firearms, dangerous devices, and ammunition or any of them received together with the name and address of the person from whom received, and the manufacturer, type and serial number of each firearm and dangerous device, the name and address of the person to whom transferred, the identification card number of such person, the manufacturer, type and serial number of the gun or dangerous device transferred and the date of transfer. Such records shall be available for inspection at all reasonable times by the Office of the Attorney General and his duly designated representatives. Such records shall be retained at least five years.

(b) Every dealer, at the time of any transfer of any firearm or dangerous device to any person other than a licensed dealer shall, within 24 hours of the transfer, supply the following information to the Office of the Attorney General on a form approved by it:

(1) The name, address and license number of the dealer.

(2) The manufacturer, type and serial number of firearm or dangerous device transferred. No firearm shall be transferred which does not have a serial number or from which the serial number has been removed, defaced, or altered.

(3) The name, address and identification card number of the transferee.

Section Notes

Sources
(P.L. No. 4C-13, § 13.) 63 TTC § 563, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4612], modified, recodified section from 17 PNC § 3413 to 17 PNC § 4613.

§ 4614. Repair of firearms.

(a) No person, other than a dealer or manufacturer licensed pursuant to this chapter shall repair firearms or accept the same for repair.

(b) No person shall accept any firearms for repair unless he is shown an identification card evidencing eligibility of the holder to possess and use a firearm of the type offered for repair. Prior to returning any such firearm, the manufacturer or dealer shall make and keep a record identical with that required for the purchase of a firearm pursuant to Section 4613 of this chapter, and shall maintain such record for at least one year.

(c) Nothing in this section shall be construed to prohibit the repair or maintenance of a firearm by the owner thereof.

Section Notes

Sources
(P.L. No. 4C-13, § 14.) 63 TTC § 564, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4613], modified, recodified section from 17 PNC § 3414 to 17 PNC § 4614.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4615. Transfer or sale of ammunition.

(a) No person may transfer ammunition, unless he is a manufacturer, wholesaler or dealer licensed pursuant to this chapter. If the transfer is other than to another manufacturer, wholesaler or dealer, the transfer shall not be made until the transferor has ascertained that the transferee is the holder of an identification card evidencing eligibility to possess and use a firearm of the type for which the ammunition is suited. Upon transfer the transferor shall record the quantity, type and caliber or gauge transferred, the name and address of the transferee and the number of the transferee's identification card.

(b) No transferee of ammunition shall transfer it to any person other than a dealer licensed pursuant to this chapter. Upon receipt of ammunition, the dealer shall make and keep all records with respect to the ammunition in the manner required by this section for ammunition sold by him.

Section Notes

Sources
(P.L. No. 4C-13, § 15.) 63 TTC § 565, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4614], modified, recodified section from 17 PNC § 3415 to 17 PNC § 4615.

§ 4616. Private sales or transfers.

No person other than a manufacturer, wholesaler or dealer licensed pursuant to this chapter shall transfer a firearm or dangerous device to any person other than a manufacturer, wholesaler or dealer without first ascertaining that the transferee is the holder of an identification card issued pursuant to this chapter. Prior to any such transfer, the transferor shall furnish to the Office of the Attorney General in person or by registered or certified mail, return receipt requested, a properly completed form approved by the Office of the Attorney General providing information equivalent to that required to be furnished by a dealer upon the transfer by him of a firearm or dangerous device.

Section Notes

Sources
(P.L. No. 4C-13, § 16.) 63 TTC § 566, modified.

RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4615], modified, recodified section from 17 PNC § 3416 to 17 PNC § 4616.

§ 4617. Receipt or use as security.

(a) No person, other than a licensed dealer, shall receive a firearm as a pledge or pawn, or in any other manner as security.

(b) A dealer receiving a firearm as a pledge, pawn or otherwise, as security, shall record promptly (1) the date of receipt, (2) the full description of the item or items received, including the manufacturer, type and serial number or numbers, if any, (3) the name and address of the person making the pledge, pawn, or other deposit as security, and (4) the number of said person's identification card. No dealer shall accept the pledge, pawn, or other deposit as security unless the person making the same exhibits an identification card evidencing his entitlement to possess and use a gun of the type involved.

(c) Upon the return or other disposition of the firearm in his possession pursuant to this section, the dealer shall make a record of the return or other disposition, including the date thereof and the name and address of the person to whom the firearm was returned or disposed. No firearm shall be returned or disposed of to any person who, at the time of such return or disposition, does not exhibit a valid identification card issued in his own name and entitling him to possess and use the firearm involved.

Section Notes

Sources
(P.L. No. 4C-13, § 17.) 63 TTC § 567, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4616], modified, recodified section from 17 PNC § 3417 to 17 PNC § 4617.

§ 4618. Manufacturers and wholesalers.

(a) No person shall manufacture or deal in firearms, dangerous devices or ammunition at wholesale unless:

(1) he is the holder of a dealer's license issued pursuant to Section 4611 of this chapter; or

(2) he is the holder of a license issued pursuant to this section.

(b) Any person proposing to manufacture or deal at wholesale in firearms, dangerous devices or ammunition, which person is not the holder of a dealer's license, shall make application for a manufacturer's or wholesaler's license. Such application shall contain the same information required for a dealer's license and any additional information required by the Attorney General as may be appropriate to administer this chapter. No manufacturer's license or wholesaler's license shall authorize transfer or delivery within the Trust Territory except to a licensed dealer, manufacturer or wholesaler or to a political subdivision of the Trust Territory or, subject to applicable laws of the Trust Territory, for export.

(c) The Office of the Attorney General shall issue, renew, cancel, deny, suspend or revoke manufacturers' and wholesalers' licenses on the same terms and subject to the same conditions as provided for dealers' licenses.

(d) Every manufacturer shall assign a unique serial number to each firearm manufactured by him and shall inscribe such number in or on the firearm in such manner as will resist removal, alteration, defacement or obliteration. The Office of the Attorney General may make regulations for the style of such serial numbers and for the manner of their inscription.

Section Notes

Sources
(P.L. No. 4C-13, § 18.) 63 TTC § 568, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4617], modified, recodified section from 17 PNC § 3418 to 17 PNC § 4618.

§ 4619. Registry of firearms and ammunition.

(a) The Office of the Attorney General shall maintain a registry of firearms. The records in the registry shall be kept permanently unless there is a record of the destruction of the gun.

(b) Records kept in the registry shall include all records required to be filed with the Office of the Attorney General pursuant to this chapter, copies of all records filed with an agency or officer of local government pursuant to this chapter, and any records deposited with the Office of the Attorney General pursuant to subsection (c) of this section.

(c) Any dealer, manufacturer or wholesaler licensed pursuant to this chapter, upon his discontinuance of the licensed business or activity, shall transmit all records kept by him pursuant to this chapter to the Office of the Attorney General.

(d) Records relating to the repair of firearms shall be kept by the Office of the Attorney General for a period of at least five years after transmittal.

(e) Records in the registry shall not be public records. They shall be made available only to law enforcement officers of the Trust Territory or its subdivisions, or at the discretion of the Office of the Attorney General, to law enforcement officers and agencies of foreign governments.

Section Notes

Sources
(P.L. No. 4C-13, § 19.) 63 TTC § 569, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4618], modified, recodified section from 17 PNC § 3419 to 17 PNC § 4619.

§ 4620. Cancellation, denial, suspension and revocation of licenses.

(a) Any license issued pursuant to this chapter shall be surrendered for cancellation immediately on the discontinuance or termination of business or upon the holder’s discontinuing the manufacturing, selling, acquisition for sale or repair of firearms and the sale of ammunition.

(b) The issuing officer or agency may deny, suspend or revoke an identification card or a license issued pursuant to this chapter for failure of the applicant or holder to meet or continue to meet any of the requirements for eligibility therefor, or for any violation of this chapter or regulations in force pursuant thereto.

(c) The Office of the Attorney General by regulation shall make classifications of offenses and other violations of this chapter or regulations in force thereunder. Regulations made pursuant to this subsection shall set forth those offenses and violations for which identification cards

and licenses may be suspended or revoked, and those for which the penalty must be revocation. Such regulations shall be of general application.

(d) Any person who, by reason of the suspension or revocation of his identification card, is no longer eligible to continue in possession of a firearm, dangerous device or ammunition shall surrender any and all firearms, dangerous devices and ammunition to a district chief of police, or shall dispose of the firearms, dangerous devices and ammunition forthwith under the direction and supervision of a district chief of police. In the case of suspension of an identification card, the owner of the firearm, dangerous device or ammunition may request that the constabulary keep same during the period of suspension and, except as herein provided, the firearm, dangerous device or ammunition shall be restored to the owner when he again becomes eligible to possess same and requests return. Any firearm, dangerous device or ammunition in the possession of a district chief of police pursuant to this subsection may be disposed of, without compensation to the owner, upon revocation of the suspended identification card or at the end of 60 days after receipt or the date of termination of the suspension, whichever is later. However, if proceedings in connection with the suspension or revocation are not yet finally determined, disposal shall not be until such final determination has been made.

(f) Any denial, suspension or revocation of an identification card or a license shall be subject to review by the High Commissioner upon request by the aggrieved person, and thereafter to the district court of any district having jurisdiction thereof.

Section Notes

Sources
(P.L. No. 4C-13, § 20.) 63 TTC § 570, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4619], modified, recodified section from 17 PNC § 3420 to 17 PNC § 4620.

§ 4621. Shipment and delivery of firearms, dangerous devices and ammunition.

(a) No person shall ship, transport or deliver any firearm, dangerous device or ammunition to anyone other than a licensed manufacturer, wholesaler, dealer or person who possesses a valid identification card.

(b) Any person who ships, transports or delivers firearms or dangerous devices to a manufacturer, wholesaler, dealer or person possessing an identification card in the Trust Territory shall, before delivery, furnish to the Office of the Attorney General an invoice listing his name and address, the name and address of the manufacturer, wholesaler, dealer or person possessing the identification card to whom such firearms or dangerous devices are to be delivered, the place of origin of the shipment, the number of firearms and dangerous devices of each type and the manufacturer and serial number of each firearm and dangerous device in the shipment.

(c) Any person who ships, transports or delivers ammunition to a manufacturer, wholesaler, dealer or person possessing an identification card in the Trust Territory shall, before delivery, furnish to the Office of the Attorney General an invoice listing his name and address, the name and address of the manufacturer, wholesaler, dealer or person possessing an identification card to whom the ammunition is to be delivered, the place of origin of the shipment and the quantity of ammunition of each type in the shipment.

(d) If shipment is by common carrier, a copy of the invoice required by subsections (b) and (c) of this section shall also be delivered to the common carrier. The common carrier shall deliver the invoice and any said shipment to the district chief of police who will verify the accuracy of the shipment, and compliance with this chapter, before delivery to the manufacturer, wholesaler, dealer or person possessing an identification card. A copy of the invoice shall be left with the manufacturer, wholesaler, dealer or person possessing an identification card at the time of delivery.

(e) If shipment is by other than common carrier, a copy of the invoice shall be furnished to the manufacturer, wholesaler, dealer or person possessing an identification card at the time of delivery.

(f) No person shall ship, transport, or deliver firearms, dangerous devices or ammunition via air without first complying with international regulations pertaining to air shipment of firearms, dangerous devices or ammunition.

Section Notes

Sources
(P.L. No. 4C-13, § 21.) 63 TTC § 571, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4620], modified, recodified section from 17 PNC § 3421 to 17 PNC § 4621.

§ 4622. Loss, destruction or theft of firearms or dangerous devices.

Whoever owns or possesses a firearm or dangerous device shall, within 24 hours of discovery, notify the Office of the Attorney General of the loss, theft or destruction of any such firearm or dangerous device and, after such notice, of recovery thereof.

Section Notes

Sources
(P.L. No. 4C-13, § 22.) 63 TTC § 572, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4621], modified, recodified section from 17 PNC § 3422 to 17 PNC § 4622.

§ 4623. Prohibited acts.

No person shall:

(1) Knowingly remove, obliterate or alter the importer's or manufacturer's serial number of any firearm.

(2) Knowingly deface, alter or destroy an identification card.

(3) Acquire, possess or use any firearm silencer or muffler.

(4) Carry any gun or dangerous device while under the influence of alcohol or narcotic or other disabling drug.

(5) Import, sell, transfer, give away, purchase, possess or use any handgun, automatic weapon, rifle larger than .22 caliber, shotgun larger than .410 gauge, or any other firearm.

(6) Board or attempt to board any commercial aircraft while carrying any firearm, dangerous device or ammunition, either on his person or in his luggage. Such firearm, dangerous device or ammunition shall be turned in prior to departure to an appropriate

official or to the pilot of the airline or aircraft concerned, who shall keep a record of the name of the person turning in such firearm, dangerous device, or ammunition, and the type and quantity turned in. Upon completion of such person's travel, the official of the airline or pilot of the aircraft shall personally deliver the article or articles turned in to the police chief of the district in which such completion took place, or to his delegate. Such person may reobtain the article or articles turned in upon either:

(A) presentation of a valid identification card or license for such article or articles to the police officer having custody thereof, or

(B) departure from the district.

(7) Use or attempt to use any firearm, dangerous device, or ammunition in connection with or in aid of the commission of any crime against the laws of the Trust Territory, except those set forth under other provisions of this chapter.

Section Notes

Sources
(P.L. No. 4C-13, § 23; P.L. No. 4C-40, § 1.) 63 TTC § 573, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4622], modified, recodified section from 17 PNC § 3423 to 17 PNC § 4623.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4624. Forfeiture of unlawful item.

All firearms, dangerous devices or ammunition unlawfully possessed, carried, used, shipped, transported or delivered into the Trust Territory are declared to be inimical to the public safety and are forfeited to the Trust Territory. When such forfeited articles are taken from any person, they shall be surrendered to the Office of the Attorney General.

Section Notes

Sources
(P.L. No. 4C-13, § 24.) 63 TTC § 574, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4623], modified, recodified section from 17 PNC § 3424 to 17 PNC § 4624.

§ 4625. Closing of establishments during emergencies.

In case of emergency concerning the public safety declared by the High Commissioner or any district administrator, all establishments dealing in guns, dangerous devices or ammunition may be ordered closed by such official and required to remain closed during the continuance of the emergency. During any such closure, any and all guns, dangerous devices and ammunition belonging to or in the keeping of a closed establishment may be impounded.

Section Notes

Sources
(P.L. No. 4C-13, § 25.) 63 TTC § 575.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4624], modified, recodified section from 17 PNC § 3425 to 17 PNC § 4625.

§ 4626. Registration of weapons possessed on effective date of chapter.

(a) Any person having in his possession a firearm or dangerous device on the effective date of this chapter shall, within 90 days of such effective date, furnish on a form approved by the Office of the Attorney General to the agency or officer authorized to receive information concerning the transfer of firearms or dangerous devices pursuant to this chapter, equivalent information concerning any firearm or dangerous device in his possession.

(b) If, prior to the expiration of the 90-day period provided in subsection (a), the firearm is transferred, the transferor shall comply with the provisions of this chapter for furnishing of information on transfer and need not comply with subsection (a) of this section.

Section Notes

Sources
(P.L. No. 4C-13, § 26.) 63 TTC § 576, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4625], modified, recodified section from 17 PNC § 3426 to 17 PNC § 4626.

§ 4627. Surrender of and compensation for weapons held on effective date by ineligible persons.

Any person who possessed any firearm or dangerous device in the Trust Territory prior to the effective date of this chapter, and who is determined to be ineligible to possess or is prohibited from possession such firearm or dangerous device under this chapter, shall tender such firearm or dangerous device to the Office of the Attorney General or his delegate within 90 days of the effective date of this chapter and be reasonably compensated therefor.

Section Notes

Sources
(P.L. No. 4C-13, § 27.) 63 TTC § 577, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4626], modified, recodified section from 17 PNC § 3427 to 17 PNC § 4627.

§ 4628. Local laws.

Nothing in this chapter shall be deemed to prevent any state from further restricting, by local law or ordinance, the transfer, possession, use or carriage of firearms, ammunition or dangerous devices. This chapter shall supersede all district laws and municipal ordinances in conflict with this chapter.

Section Notes

Sources
(P.L. No. 4C-13, § 28.) 63 TTC § 578, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4627], modified, recodified section from 17 PNC § 3428 to 17 PNC § 4628.

§ 4629. Authority of Attorney General to promulgate regulations.

The Office of the Attorney General shall have power to issue, amend and repeal regulations implementing this chapter in the manner which is or may be provided by law, as may be required by the public interest, safety and welfare.

Section Notes

Sources
(P.L. No. 4C-13, § 29.) 63 TTC § 579, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4628], modified, recodified section from 17 PNC § 3429 to 17 PNC § 4629.

§ 4630. Fees for licenses and identification cards.

(a) The fees for issuance and renewal of licenses and identification cards as required by this chapter shall be as follows:

(1) For an identification card, twenty dollars.

(2) For a dealer's license, one hundred fifty dollars.

(3) For a manufacturer's license, five hundred dollars.

(4) For a wholesaler's license, five hundred dollars.

(5) For replacement of lost, destroyed, or defaced identification card, five dollars.

(b) Fees collected pursuant to the provisions of this chapter shall be paid to the treasurer of the Trust Territory and become part of the general fund of the Congress of Micronesia as local revenue realization available for appropriation by the Congress of Micronesia.

Section Notes

Sources
(P.L. No. 4C-13, § 30.) 63 TTC § 580.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4629], modified, recodified section from 17 PNC § 3430 to 17 PNC § 4630.

Notes
The Code Commission has made technical changes to the designations within this section and designated the undesignated text following paragraph (5) as subsection (b) to conform to the Style of the Code.

§ 4631. Penalties for violation of chapter.

(a) Any person who, being the holder of a valid identification card, fails to comply with Section 4607 of this title shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one hundred dollars, or imprisoned not more than three months, or both.

(b) Any person who violates any other provisions of this chapter or any regulations issued pursuant thereto shall be guilty of a felony, and upon conviction thereof shall be fined not more than two thousand dollars, or imprisoned not more than five years, or both, and shall be subject to confiscation of any firearm, dangerous device, or ammunition, without compensation, involved in a violation of this chapter. The holder of any dealer's license, or the manager or supervisor of employees of any establishment so licensed, or both, shall be liable for any violation of this chapter by his employee or agent committed in the course of the dealer's business, to the same extent as such employee or agent.

Section Notes

Sources
(P.L. No. 4C-13, § 31; P.L. No. 6-100, § 1.) 63 TTC § 581, modified.
RPPL 9-21 § 4(d) and § 5 [Chapter 46 § 4630], modified, recodified section from 17 PNC § 3431 to 17 PNC § 4631.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

Chapter 47 — Prohibitions Against Chemical Weapons

Chapter Notes

Notes
Former Chapter 40 of Title 17 of the Palau National Code entitled "Prohibitions Against Chemical Weapons" is renumbered as Chapter 47 of Title 17 of the Palau National Code by RPPL 9-21 § 4(g).

Subchapter I — Preliminary

§ 4701. Short title.

This chapter may be cited as the "Chemical Weapons Prohibition Act".

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4700], modified, recodifies section from 17 PNC § 4001 to 17 PNC § 4701.

§ 4702. Findings and purpose.

The Olbiil Era Kelulau finds and declares as follows:

(1) The purpose of this chapter is to protect the people of the Republic of Palau and the environment of the Republic of Palau from chemical weapons, and to implement the Republic's obligations under the "Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on their Destruction."

(2) Every person exercising power or discretion conferred under this chapter must have regard to the Republic's obligations under the Convention and the exercise of any power or discretion or the performance of any duty or function authorized by this chapter must not be inconsistent with the Republic's obligations under the Convention.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4701], modified, recodifies section from 17 PNC § 4002 to 17 PNC § 4702.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4703. Definitions.

As used in this chapter:

(1) "chemical weapons" means the following, together or separately:

(A) toxic chemicals and their precursors, except where intended for purposes not prohibited under the Convention, as long as the types and quantities are consistent with such purposes;

(B) munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (A) hereof, which would be released as a result of the employment of such munitions and devices; and

(C) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (B) hereof.

(2) "convention" means the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on their Destruction, held in Paris on the 13th day of January 1993, and includes the Annexes to the Convention and the Annexes that are, or will become, binding on the Republic of Palau from time to time;

(3) "international inspector" means an individual designated by the Technical Secretariat according to the procedures as set forth in Part II, Section A, of the Verification Annex to the Convention, to carry out an inspection or visit in accordance with the Convention, and includes any inspection assistant as defined in the Convention;

(4) "key component of binary or multicomponent chemical systems" means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system;

(5) "Minister" means the Minister of Justice;

(6) "Ministry" means the Ministry of Justice;

(7) "Organization" means the Organization for the Prohibition of Chemical Weapons established pursuant to Article VIII of the Convention;

(8) "precursor" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multi-component chemical system;

(9) "purposes not prohibited under the Convention" means:

(A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

(B) protective purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; and

(D) law enforcement, including domestic riot control purposes.

(10) "Republic" means the Republic of Palau and every part of the territory of Palau, including the marine space and the territorial sea and the airspace above the territory of Palau, and also includes all governments of Palau;

(11) "riot control agent" means any chemical which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure;

(12) "toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals, including the chemicals listed on Schedules l, 2, and 3 hereto;

(13) Terms and expressions used and not defined in this chapter but defined in the Convention shall, unless the context otherwise requires, have the same meaning as in the Convention.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4702], modified, recodifies section from 17 PNC § 4003 to 17 PNC § 4703.

Notes
The Code Commission has made technical changes to the designations and cross-references within this section to conform to the Style of the Code.

§ 4704. Application.

(a) This chapter applies to all people within the territory or jurisdiction of the Republic, and to all of the Republic, Republic aircraft, and Republic ships or vessels.

(b) This chapter also extends to all acts done or omitted to be done by a Palauan citizen or national outside of the Republic. This does not relieve the Palauan citizen or national from any liability to the foreign territory or jurisdiction, while outside the Republic.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4703], modified, recodifies section from 17 PNC § 4004 to 17 PNC § 4704.

Subchapter II — Offenses

§ 4705. Chemical weapons.

(a) Every person commits an offense who intentionally or knowingly:

(1) develops, produces, otherwise acquires, stockpiles, or retains chemical weapons;

(2) transfers, directly or indirectly, chemical weapons to another person;

(3) uses chemical weapons;

(4) engages in any military preparations to use chemical weapons; or

(5) assists, encourages, or induces, in any way, any person to engage in any activity prohibited to the Republic under the Convention.

(b) Upon conviction of such offense, the person shall be sentenced up to life imprisonment or a fine not exceeding one million dollars ($1,000,000), or both.

Section Notes

Sources
RPPL 7-8 § 1.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4704], modified, recodifies section from 17 PNC § 4005 to 17 PNC § 4705.

Notes
The Code Commission has made technical changes to the designations within this section and designated the undesignated text following paragraph (5) as subsection (b) to conform to the Style of the Code.

§ 4706. Forfeiture and seizure.

(a) If any chemical weapon is developed, produced, otherwise acquired, stockpiled, retained or transferred in contravention of this chapter, the chemical weapon is forfeited to the Republic.

(b) Any law enforcement officer of the Republic may, with a warrant, or without a warrant in exigent circumstances, seize such chemical weapon that is forfeited or that he or she has reasonable grounds to believe to be forfeited to the Republic under subsection (a); and

(c) The chemical weapon seized shall be stored, until disposed of, at the discretion of the Minister.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4705], modified, recodifies section from 17 PNC § 4006 to 17 PNC § 4706.

§ 4707. Riot control agents.

Every person commits an offense who knowingly uses riot control agents as a method of warfare, and upon conviction thereof shall be sentenced up to life imprisonment or a fine not exceeding one million dollars ($1,000,000), or both.

Section Notes

Sources
RPPL 7-8 § 1.

RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4706], modified, recodifies section from 17 PNC § 4007 to 17 PNC § 4707.

§ 4708. Schedule 1 toxic chemicals.

Every person commits an offense who intentionally or recklessly produces, acquires, retains, or uses any toxic chemical listed on schedule 1 without the consent of the Minister, and upon conviction thereof shall be sentenced to a term of imprisonment not exceeding five (5) years, a fine not exceeding one hundred thousand dollars ($100,000), or both.

Section Notes

Sources
RPPL 7-8 § 1.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4707], modified, recodifies section from 17 PNC § 4008 to 17 PNC § 4708.

§ 4709. Imports and exports of toxic chemicals and precursors.

(a) Except with the consent of the Minister, the importation into the Republic, and the exportation from the Republic, of any toxic chemicals or precursors listed in Schedules 1, 2, and 3 of the Annex on Chemicals is hereby prohibited.

(b) In determining whether or not to give consent, the Minister shall be guided by the restrictions on transfer set out in Parts VI to VIII of the Verification Annex to the Convention.

(c) Every person commits an offense who intentionally or recklessly imports or exports any chemical or precursor in contravention of subsection (a) of this section, and upon conviction thereof shall be sentenced to a term of imprisonment not exceeding five (5) years, a fine not exceeding one hundred thousand dollars ($100,000), or both.

Section Notes

Sources
RPPL 7-8 § 1.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4708], modified, recodifies section from 17 PNC § 4009 to 17 PNC § 4709.

Subchapter III — Information and Documents

§ 4710. Purpose.

(a) The purpose of Subchapter III of this chapter is to ensure:

(1) that toxic chemicals and their precursors are only developed, produced, otherwise acquired, retained, transferred, or used for purposes not prohibited under the Convention;

(2) that the Minister has knowledge of dealings with chemicals that facilitates the making of the Republic's periodic declarations under the Convention; and

(3) that the Republic is otherwise able to fulfill its obligations under the Convention and to the Organization.

(b) Any power under Subchapter III of this chapter may be exercised only for that purpose.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4709], modified, recodifies section from 17 PNC § 4010 to 17 PNC § 4710.

§ 4711. Supply of information.

(a) Any person who produces, acquires, retains, transfers, or uses toxic chemicals or their precursors listed on schedules 1, 2, or 3 must:

(1) advise the Minister of such chemicals and, as the case may be, the facility as soon as practicable after this section commences to apply to the chemicals or facility, by giving written notice in a form approved by the Minister, containing such information as is required by the form;

(2) keep records in relation to the chemicals and the facility, and the purpose to which the chemicals are put;

(3) prepare, from those records, periodic reports relating to the chemicals and the facility in a form approved by the Minister; and

(4) send the periodic reports to the Minister at intervals specified by the Minister or by regulation.

(b) The records and reports required under this section must be sufficient to satisfy the Minister that the Convention and the provisions of this chapter and any regulations made under this chapter are being complied with.

(c) Every person who refuses or fails to comply with this section commits an offense, and upon conviction thereof shall be sentenced to a term of imprisonment not exceeding one (1) year or a fine not exceeding one hundred thousand dollars ($100,000), or both.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4710], modified, recodifies section from 17 PNC § 4011 to 17 PNC § 4711.

§ 4712. Minister may seek information.

(a) This section applies if the Minister considers that any person is capable of giving information that is relevant to the implementation of the Convention or the enforcement of this chapter.

(b) The Minister may, by written notice given to a person, require the person to give the type of information described in subsection (a) hereof:

(1) if the person is a natural person, by writing signed by the person; or

(2) if the person is a corporation, by writing signed by an officer authorized to sign on behalf of the corporation, within such reasonable period and in such manner as is specified in the notice.

(c) The Minister may, by written notice given to a person, require the person to give to the Minister particular documents, or documents of a particular kind, specified in the notice, within such reasonable period as is specified in the notice.

(d) Every person who, without reasonable excuse, fails to comply with a notice under this section to the extent that the person is capable of complying with it commits an offense and upon conviction thereof shall be sentenced to imprisonment for a term not exceeding one (1) year or a fine not exceeding one hundred thousand dollars ($100,000), or both.

(e) The power of the Minister under this section to require a person to give information or documents to the Minister is in addition to any obligation to give information or documents that the person may have under Section 4711 of this chapter.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4711], modified, recodifies section from 17 PNC § 4012 to 17 PNC § 4712.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4713. False or misleading statements or documents.

Every person commits an offense who, in any document prepared pursuant to this chapter, makes a statement or omits any matter knowing that, or being reckless as to whether, the statement or omission makes the document false or misleading in a material particular, and upon conviction shall be sentenced to imprisonment for a term not exceeding one (1) year or a fine not exceeding one hundred thousand dollars ($100,000), or both.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4712], modified, recodifies section from 17 PNC § 4013 to 17 PNC § 4713.

Subchapter IV — Inspections

§ 4714. Purpose.

The purpose of Subchapter IV of this chapter is to facilitate inspections under the Convention by:

(1) confirming the right of international inspectors to inspect facilities and other places in the Republic in accordance with the Convention and any facility agreement;

(2) enabling the Republic's law enforcement officers to secure access for any international inspector where consent cannot be obtained; and

(3) enabling the Republic's law enforcement officers to accompany or assist any international inspector.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4713], modified, recodifies section from 17 PNC § 4014 to 17 PNC § 4714.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4715. Verification of toxic chemicals.

All toxic chemicals and their precursors listed in Schedules 1, 2, and 3, and facilities related to such chemicals are hereby declared to be subject to verification measures as provided in the Convention.

Section Notes

Sources
RPPL 7-8 § 1.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4714], modified, recodifies section from 17 PNC § 4015 to 17 PNC § 4715.

§ 4716. Inspections.

An international inspector shall be permitted to enter any facility described in Section 4715 hereof and such inspector shall be permitted to inspect any such facility or place pursuant to the Convention and, in the case of any facility, an inspector shall be permitted to inspect any applicable facility agreement; and an international inspector shall be permitted to exercise, in connection with the inspection, any function contemplated and exercise any power provided for in the Convention.

Section Notes

Sources
RPPL 7-8 § 1.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4715], modified, recodifies section from 17 PNC § 4016 to 17 PNC § 4716.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4717. Persons who may accompany international inspectors.

In order to facilitate inspections, an international inspector may be accompanied by:

(1) an observer;

(2) any person appointed by the Minister under Section 4718 of this chapter; and

(3) any law enforcement officer.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4716], modified, recodifies section from 17 PNC § 4017 to 17 PNC § 4717.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code. Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4718. Appointment of officials of the Republic.

The Minister may appoint any person to accompany or assist any national or international inspector.

Section Notes

Sources
RPPL 7-8 § 1.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4717], modified, recodifies section from 17 PNC § 4018 to 17 PNC § 4718.

§ 4719. Search warrants.

In order to facilitate enforcement of this chapter, any member of the Bureau of Public Safety, or other person appointed under Section 4718 of this chapter, may apply for a search warrant where the consent of the person who is in control of any place cannot be obtained or as otherwise provided for by law.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4718], modified, recodifies section from 17 PNC § 4019 to 17 PNC § 4719.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4720. Use of force.

If force is required to enter and inspect any place specified in a warrant (whether by breaking down a door or otherwise), or in breaking open anything in the place, a member of the Bureau of Public Safety, or other person appointed under Section 4718 of this chapter, who accompanies an international inspector, may use such force as is reasonable in the circumstances.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4719], modified, recodifies section from 17 PNC § 4020 to 17 PNC § 4720.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4721. Obligations of persons accompanying international inspectors.

Every member of the Bureau of Public Safety, or other person appointed under Section 4718 of this chapter, who accompanies an international inspector on any inspection shall:

(1) carry his or her identification or badge; and

(2) produce the identification or badge to any person appearing to be in charge of the place entered:

(A) on entering the place, if such person appearing to be in charge is then present;

(B) at any reasonable time thereafter, if asked to do so by the person; or

(C) if there is no person appearing to be in charge of the place at any time between the time of entry and the time the inspection concerned has been completed, must, as soon as is practicable after completing the inspection, give an occupier or person in charge of the place a written notice stating that the place has been entered, and specifying the time and date of entry, the circumstances and purpose of entry and the name of every person entering; and

(i) must have any warrant with him or her and produce it if required to do so;

(ii) where any thing is seized, must give an occupier or person in charge of the place a written inventory of all things so seized; and

(iii) must report any offense or suspected offense to the Bureau of Public Safety as soon as practicable.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4720], modified, recodifies section from 17 PNC § 4021 to 17 PNC § 4721.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code. Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4722. Obstruction of international inspectors.

(a) Every person commits an offense, and upon conviction shall be sentenced to imprisonment for a term not exceeding six (6) months or a fine not exceeding twenty thousand dollars ($20,000), or both, who willfully obstructs, hinders, resists, or deceives any international inspector who is exercising in the Republic any function contemplated, or any power provided for, in this chapter or through the Convention.

(b) Nothing in this section applies to a refusal to give consent to entry by an international inspector who is not acting pursuant to a search warrant.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4721], modified, recodifies section from 17 PNC § 4022 to 17 PNC § 4722.

Subchapter V — Miscellaneous Provisions

§ 4723. Confidentiality.

(a) Every person must keep confidential any information that is given pursuant to this chapter or the Convention concerning the affairs of another person.

(b) Such information may be disclosed only with the consent of the person to whose affairs it relates or for the purpose of:

(1) enabling the Republic to fulfill its obligations under the Convention;

(2) the enforcement of this chapter; or

(3) dealing with an emergency involving public safety.

(c) Every person who violates this section commits an offense, and upon conviction shall be sentenced to imprisonment for a term not exceeding six (6) months or a fine not exceeding twenty thousand dollars ($20,000), or both.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4722], modified, recodifies section from 17 PNC § 4023 to 17 PNC § 4723.

§ 4724. Transfers to States not a Party to the Convention.

When transferring Schedule 3 chemicals to States not a Party to the Convention, the Republic shall require from the recipient State a certificate stating, in relation to the transferred chemicals:

(1) that they will only be used for the purposes not prohibited under this Convention;

(2) that they will not be re-transferred;

(3) their types and quantities;

(4) their end-use(s); and

(5) the name(s) and address(es) of the end-user(s).

Section Notes

Sources
RPPL 7-8 § 1.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4723], modified, recodifies section from 17 PNC § 4024 to 17 PNC § 4724.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4725. Regulations.

The Minister may from time to time make regulations:

(1) providing for any matter that is necessary or desirable for the purpose of implementing the Convention or any agreement that is concluded between the Republic and the Organization pursuant to the Convention; and

(2) providing for such other matters as are contemplated by or necessary for giving full effect to this chapter and for its due administration.

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4724], modified, recodifies section from 17 PNC § 4025 to 17 PNC § 4725.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4726. Designations.

The Minister of State shall, by notice in writing, designate and constitute within the Ministry of State, a Chemical Weapons Convention Officer as the National Authority of the Republic to serve as the focal point for effective liaison with the Organization and with other State Parties to the Convention. The Attorney General shall be designated as the legal expert for the Republic with respect to the Organization.

Section Notes

Sources
RPPL 7-8 § 1.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4725], modified, recodifies section from 17 PNC § 4026 to 17 PNC § 4726.

§ 4727. Schedule 1.

The following substances are included in Schedule 1:

(1) Toxic chemicals:

(A) O-Alkyl (≤C10, incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates e.g. Sarin: O-Isopropyl methylphosphonofluoridate Soman:; O-Pinacolyl methylphosphonofluoridate

(B) O-Alkyl (≤C10, incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates e.g. Tabun:; O-Ethyl N,N-dimethyl phosphoramidocyanidate

(C) O-Alkyl (H or ≤C10, incl. cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts e.g. VX:; O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate

(D) Sulfur mustards:

(i) 2-Chloroethylchloromethylsulfide

(ii) Mustard gas: Bis(2-chloroethyl)sulfide

(iii) Bis(2-chloroethylthio)methane

(iv) Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane

(v) 1,3-Bis(2-chloroethylthio)-n-propane

(vi) 1,4-Bis(2-chloroethylthio)-n-butane

(vii) 1,5-Bis(2-chloroethylthio)-n-pentane
(viii) Bis(2-chloroethylthiomethyl)ether
(ix) O-Mustard: Bis(2-chloroethylthioethyl)ether

(E) Lewisites:
(i) Lewisite 1: 2-Chlorovinyldichloroarsine
(ii) Lewisite 2: Bis(2-chlorovinyl)chloroarsine
(iii) Lewisite 3: Tris(2-chlorovinyl)arsine

(F) Nitrogen mustards:
(i) HN1: Bis(2-chloroethyl)ethylamine
(ii) HN2: Bis(2-chloroethyl)methylamine
(iii) HN3: Tris(2-chloroethyl)amine

(G) Saxitoxin
(H) Ricin

(2) Precursors:
(A) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides e.g. DF: Methylphosphonyldifluoride
(B) O-Alkyl (H or ≤C10, incl. cycloalkyl) O-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite
(C) Chlorosarin: O-Isopropyl methylphosphonochloridate
(D) Chlorosoman: O-Pinacolyl methylphosphonochloridate

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4726], modified, recodifies section from 17 PNC § 4027 to 17 PNC § 4727.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4728. Schedule 2.

The following substances are included in Schedule 2:

(1) Toxic chemicals:
(A) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts
(B) PFIB:1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene
(D) BZ: 3-Quinuclidinyl benzilate (*)

(2) Precursors:
(A) Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not

further carbon atoms, e.g. Methylphosphonyl dichloride, Dimethyl methylphosphonate

Exemption:Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate

(B) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides

(C) Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates

(D) Arsenic trichloride

(E) 2,2-Diphenyl-2-hydroxyacetic acid

(F) Quinuclidine-3-ol

(G) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts

(H) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts

Exemptions:N,N-Dimethylaminoethanol and corresponding protonated salts; and N,N-Diethylaminoethanol and corresponding protonated salts

(I) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts

(J) Thiodiglycol: Bis(2-hydroxyethyl)sulfide

(K) Pinacolyl alcohol: 3,3-Dimethylbutane-2-ol

Section Notes

Sources
RPPL 7-8 § 1, modified.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4727], modified, recodifies section from 17 PNC § 4028 to 17 PNC § 4728.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4729. Schedule 3.

The following substances are included in Schedule 3:

(1) Toxic chemicals:

(A) Phosgene: Carbonyl dichloride

(B) Cyanogen chloride

(C) Hydrogen cyanide

(D) Chloropicrin: Trichloronitromethane

(E) Precursors:

(F) Phosphorus oxychloride

(G) Phosphorus trichloride

(H) Phosphorus pentachloride

(I) Trimethyl phosphite

(J) Triethyl phosphite

(K) Dimethyl phosphite
(L) Diethyl phosphite
(M) Sulfur monochloride
(N) Sulfur dichloride
(O) Thionyl chloride
(P) Ethyldiethanolamine
(Q) Methyldiethanolamine
(R) Triethanolamine

Section Notes

Sources
RPPL 7-8 § 1.
RPPL 9-21 § 4(g) and § 5 [Chapter 47 § 4728], modified, recodifies section from 17 PNC § 4029 to 17 PNC § 4729.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

DIVISION 7 — OFFENSES AGAINST PUBLIC HEALTH AND MORALS

Chapter 48 — Prostitution and Promoting Prostitution

Chapter Notes

Note
In RPPL 9-21 § 5 section numbering in Chapter 48 read §§ 4800–4805, which has been renumbered to §§ 4801–4806 to conform with the Style of the Code.

§ 4801. Prostitution.

(a) A person commits the offense of prostitution if the person:

(1) engages in, or agrees or offers to engage in, sexual conduct with another person for a fee; or

(2) pays, agrees to pay, or offers to pay a fee to another to engage in sexual conduct.

(b) As used in subsection (a) above:

(1) "deviate sexual intercourse" means any act of sexual gratification between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.

(2) "sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast or breasts of a female for the purpose of sexual stimulation, gratification, or perversion.

(3) "sexual contact" means any touching, other than acts of "sexual penetration", of the sexual or other intimate parts of a person not married to the actor, or of the sexual or other intimate parts of the actor by the person, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts.

(4) "sexual penetration" means:

(A) vaginal intercourse, anal intercourse, fellatio, deviate sexual intercourse, or any intrusion of any part of a person's body or of any object into the genital or anal opening of another person's body; it occurs upon any penetration, however slight, but emission is not required. As used in this definition, "genital opening" includes the anterior surface of the vulva or labia majora; or

(B) cunnilingus or anilingus, whether or not actual penetration has occurred. For purposes of this chapter, each act of sexual penetration shall constitute a separate offense.

(c) Prostitution is a misdemeanor.

(d) This section shall not apply to a Bureau of Public Safety police officer or other law enforcement officer acting in the course and scope of duties.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 48 § 4800], modified.

Supreme Court Cases
Xiao v. ROP, 2020 Palau 4 ¶ 10 (App. Div.).

§ 4802. Promoting prostitution; definition of terms.

In Sections 4803 and 4804:

(1) A person "advances prostitution" if, acting other than as a prostitute or a patron of a prostitute, the person knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons for prostitution purposes, permits premises to be regularly used for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.

(2) A person "profits from prostitution" if, acting other than as a prostitute receiving compensation for personally-rendered prostitution services, the person accepts or receives money or other property pursuant to an agreement or understanding with any person whereby the person participates or is to participate in the proceeds of prostitution activity.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 48 § 4801], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code. Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4803. Promoting prostitution in the first degree.

(a) A person commits the offense of promoting prostitution in the first degree if the person knowingly:

(1) advances prostitution by compelling or inducing a person by force, threat, fraud, or intimidation to engage in prostitution, or profits from such conduct by another; or

(2) advances or profits from prostitution of a person less than eighteen years old.

(b) Promoting prostitution in the first degree is a class A felony.

(c) As used in this section:

(1) "fraud" means making material false statements, misstatements, or omissions.

(2) "threat" means threatening by word or conduct to:

(A) cause bodily injury in the future to the person threatened or to any other person;

(B) cause damage to property or cause damage, as defined in 17 PNC Section 3101 of this Penal Code, to a computer, computer system, or computer network;

(C) subject the person threatened or any other person to physical confinement or restraint;

(D) commit a penal offense;

(E) accuse some person of any offense or cause a penal charge to be instituted against some person;

(F) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt, or ridicule, or to impair the threatened person's credit or business repute;

(G) reveal any information sought to be concealed by the person threatened or any other person;

(H) testify or provide information or withhold testimony or information with respect to another's legal claim or defense;

(I) take or withhold action as a public servant, or cause a public servant to take or withhold such action;

(J) bring about or continue a strike, boycott, or other similar collective action, to obtain property that is not demanded or received for the benefit of the group that the defendant purports to represent;

(K) destroy, conceal, remove, confiscate, or possess any actual or purported passport, or any other actual or purported government identification document, or other immigration document, of another person; or

(L) do any other act that would not in itself substantially benefit the defendant but that is calculated to harm substantially some person with respect to the threatened person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 48 § 4802], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

Supreme Court Cases
Xiao v. ROP, 2020 Palau 4 ¶¶ 13, 14, 15, 16, 17, 31 (App. Div.).

§ 4804. Promoting prostitution in the second degree.

(a) A person commits the offense of promoting prostitution in the second degree if the person knowingly advances or profits from prostitution.

(b) Promoting prostitution in the second degree is a class B felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 48 § 4803], modified.

§ 4805. Loitering for the purpose of engaging in or advancing prostitution.

(a) For the purposes of this section, "public place" means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility or the doorways and entrance ways to any building that fronts on any of the aforesaid places, or a motor vehicle in or on any such place.

(b) Any person who remains or wanders about in a public place and repeatedly beckons to or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons for the purpose of committing the crime of prostitution shall be guilty of a petty misdemeanor.

(c) Any person who remains or wanders about in a public place and repeatedly beckons to, or repeatedly stops, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons for the purpose of committing the crime of advancing prostitution is guilty of a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 48 § 4804], modified.

§ 4806. Promoting travel for prostitution.

(a) A person commits the offense of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be prostitution if occurring in the Republic of Palau.

(b) The phrase “travel services” as used in subsection (a) above, includes transportation by air, sea, or rail; related ground transportation; hotel accommodations; or package tours, whether offered on a wholesale or retail basis.

(c) Promoting travel for prostitution is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 48 § 4805], modified.

Chapter 49 — Offenses Related to Obscenity

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 49 read §§ 4900–4906, which has been renumbered to §§ 4901–4907 to conform with the Code numbering format.

§ 4901. Definitions of terms in this chapter.

In this chapter, unless a different meaning is required:

(1) "age verification records of sexually exploited individuals" means individually identifiable records pertaining to every sexually exploited individual provided to patrons or customers of a public establishment or in a private club or event. Such records shall include:

(A) each sexually exploited individual's name and date of birth, as ascertained by an examination of the individual's valid driver's license, official Republic of Palau identification card, or passport;

(B) a certified copy of each sexually exploited individual's driver's license, official Republic of Palau identification card, or passport; and

(C) any name ever used by each sexually exploited individual including but not limited to maiden name, aliases, nicknames, stage names, or professional names.

(2) "age verification records of sexual performers" means individually identifiable records pertaining to every sexual performer portrayed in a visual depiction of sexual conduct, which include:

(A) each performer's name and date of birth, as ascertained by the producer's personal examination of a performer's valid driver's license, official Republic of Palau identification card, or passport;

(B) a certified copy of each performer's valid driver's license, official Republic of Palau identification card, or passport; and

(C) any name ever used by each performer including, but not limited to, maiden name, alias, nickname, stage name, or professional name.

(3) "community standards" means the standards of the Republic of Palau.

(4) "disseminate" means to manufacture, issue, publish, sell, lend, distribute, transmit, exhibit, or present material or to offer or agree to do the same.

(5) "erotic or nude massager" means a nude person providing massage services with or without a license.

(6) "exotic or nude dancer" means a person performing, dancing, or entertaining in the nude, and includes patrons participating in a contest or receiving instruction in nude dancing.

(7) "intent to profit" means the intent to obtain monetary gain.

(8) "material" means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, sculptures, and tape or wire recordings.

(9) "minor" means any person less than eighteen years old.

(10) "nude" means unclothed or in attire, including but not limited to sheer or see-through attire, so as to expose to view any portion of the pubic hair, anus, cleft of the buttocks, genitals or any portion of the female breast below the top of the areola.

(11) "performance" means any play, motion picture film, dance, or other exhibition performed before an audience.

(12) "pornographic." Any material or performance is "pornographic" if all of the following coalesce:

(A) The average person, applying contemporary community standards would find that, taken as a whole, it appeals to the prurient interest.

(B) It depicts or describes sexual conduct in a patently offensive way.

(C) Taken as a whole, it lacks serious literary, artistic, political, or scientific merit.

(13) "pornographic for minors." Any material or performance is "pornographic for minors" if:

(A) it is primarily devoted to explicit and detailed narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse; and:

(i) it is presented in such a manner that the average person applying contemporary community standards, would find that, taken as a whole, it appeals to a minor's prurient interest; and

(ii) taken as a whole, it lacks serious literary, artistic, political, or scientific value; or

(B) it contains any photograph, drawing, or similar visual representation of any person of the age of puberty or older revealing such person with less than a fully opaque covering of his or her genitals and pubic area, or depicting such person in a state of sexual excitement or engaged in acts of sexual conduct or sadomasochistic abuse; and:

(i) it is presented in such a manner that the average person, applying contemporary community standards, would find that, taken as a whole, it appeals to a minor's prurient interest; and

(ii) taken as a whole, it lacks serious literary, artistic, political, or scientific value.

(14) "produces" means to manufacture or publish any pornographic performance, book, magazine, periodical, film, videotape, computer image, or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity that does not involve hiring, contracting for, managing, or otherwise arranging for the participation of the performers depicted.

(15) "sadomasochistic abuse" means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

(16) "sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast or breasts of a female for the purpose of sexual stimulation, gratification, or perversion.

(17) "sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(18) "sexually exploited individuals" means erotic or nude massagers and exotic or nude dancers.

(19) "sexual performer" includes any person portrayed in a pornographic visual depiction engaging in, or assisting another person to engage in, sexual conduct.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 49 § 4900], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code.

§ 4902. Displaying indecent matter.

(a) A person commits the offense of displaying indecent matter if the person knowingly or recklessly displays on any sign, billboard, or other object visible from any street, highway, or public sidewalk, a photograph, drawing, sculpture, or similar visual representation of any person of the age of puberty or older:

(1) that reveals the person with less than a fully opaque covering over his or her genitals, pubic area, or buttocks, or depicting the person in a state of sexual excitement or engaged in an act of sexual conduct or sadomasochistic abuse; and

(2) that is presented in such a manner as to exploit lust; and

(3) that lacks serious literary, artistic, political, or scientific value.

(b) Displaying indecent material is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 49 § 4901], modified.

§ 4903. Displaying indecent material; prima facie evidence.

The fact that a person engaged in the conduct specified by 17 PNC Section 4902 is prima facie evidence that the person engaged in that conduct with knowledge of or in reckless disregard of the character, content, or connotation of the material that is displayed.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 49 § 4902], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 4904. Promoting pornography.

(a) A person commits the offense of promoting pornography if, knowing its content and character, the person:

(1) disseminates for monetary consideration any pornographic material; or

(2) produces, presents, or directs pornographic performances for monetary consideration; or

(3) participates for monetary consideration in that portion of a performance that makes it pornographic.

(b) Promoting pornography is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 49 § 4903], modified.

§ 4905. Promoting pornography for minors.

(a) A person commits the offense of promoting pornography for minors if:

(1) knowing its character and content, the person disseminates to a minor material that is pornographic for minors; or

(2) knowing the character and content of a motion picture film or other performance that, in whole or in part, is pornographic for minors, the person:

(A) exhibits such motion picture film or other performance to a minor; or

(B) sells to a minor an admission ticket or pass to premises where there is exhibited or to be exhibited such motion picture film or other performance; or

(C) admits a minor to premises where there is exhibited or to be exhibited such motion picture film or other performance.

(b) Promoting pornography for minors is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 49 § 4904], modified.

§ 4906. Promoting pornography; prima facie evidence.

(a) The fact that a person engaged in the conduct specified by 17 PNC Sections 4904 or 4905 is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material disseminated or the performance produced, presented, directed, participated in, exhibited, or to be exhibited.

(b) In a prosecution under 17 PNC Section 4905, the fact that the person:

(1) to whom material pornographic for minors was disseminated; or

(2) to whom a performance pornographic for minors was exhibited; or

(3) to whom an admission ticket or pass was sold to premises where there was or was to have been exhibited such performance; or

(4) who was admitted to premises where there was or was to have been such performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 49 § 4905], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 4907. Open lewdness.

(a) A person commits the offense of open lewdness if in a public place the person does any lewd act that is likely to be observed by others who would be affronted or alarmed.

(b) Open lewdness is a petty misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 49 § 4906], modified.

Chapter 50 — Gambling Offenses

Chapter Notes

Notes
In RPPL 9-21 § 5 section numbering in Chapter 50 read §§ 5000–5011, which has been renumbered to §§ 5001–5012 to conform with the Style of the Code.

In RPPL 9-21 Chapter 42, there are several references to "this part" even though RPPL 9-21 does not have parts under Chapter 42. RPPL 9-21 references to "part" have therefore been changed to "chapter" to conform with the Style of the Code.

§ 5001. Definitions of terms in this chapter.

In this chapter unless a different meaning plainly is required, the following definitions apply:

(1) "advance gambling activity". A person "advances gambling activity" if he or she engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device, or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. A person advances gambling activity if, having substantial proprietary control or other authoritative control over premises being used with his or her knowledge for purposes of gambling activity, he or she permits that activity to occur or continue or makes no effort to prevent its occurrence or continuation. A person advances gambling activity if he or she plays or participates in any form of gambling activity.

(2) "bookmaking" means advancing gambling activity by accepting bets from members of the public upon the outcomes of future contingent events.

(3) "contest of chance" means any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(4) "gambling". A person engages in gambling if he or she stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his or her control or influence, upon an agreement or understanding that he, she or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health, or accident insurance.

(5) "gambling device" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However, lottery tickets and other items used in the playing phases of lottery schemes are not gambling devices within this definition.

(6) "lottery" means a gambling scheme in which:

(A) the players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated the winning ones; and

(B) the winning chances are to be determined by a drawing or by some other method based on an element of chance; and

(C) the holders of the winning chances are to receive something of value.

(7) "mutuel" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(8) "player" means a person who engages in gambling solely as a contestant or bettor.

(9) "profit from gambling activity". A person "profits from gambling activity" if he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in the proceeds of gambling activity.

(10) "social gambling" is defined in 17 PNC Section 5011.

(11) "something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service or entertainment.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5000], modified.

Notes
The Code Commission has made technical changes to the designations within this section to conform to the Style of the Code. Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 5002. Promoting gambling in the first degree.

(a) A person commits the offense of promoting gambling in the first degree if the person knowingly advances or profits from gambling activity by:

(1) engaging in bookmaking to the extent that the person receives or accepts in any seven-day period more than five bets totaling more than five hundred dollars ($500); or

(2) receiving in connection with a lottery, or mutuel scheme or enterprise, money or written records from a person other than a player whose chances or plays are represented by such money or records; or

(3) receiving or having become due and payable in connection with a lottery, mutuel, or other gambling scheme or enterprise, more than one thousand dollars ($1,000) in any seven-day period played in the scheme or enterprise.

(b) Promoting gambling in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5001], modified.

§ 5003. Promoting gambling in the second degree.

(a) A person commits the offense of promoting gambling in the second degree if the person knowingly advances or profits from gambling activity.

(b) Promoting gambling in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5002], modified.

§ 5004. Gambling.

(a) A person commits the offense of gambling if the person knowingly advances or participates in any gambling activity.

(b) Gambling is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5003], modified.

§ 5005. Possession of gambling records in the first degree.

(a) A person commits the offense of possession of gambling records in the first degree if the person knowingly possesses, produces, or distributes any writing, paper, instrument, or article:

(1) of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting, or representing more than five bets totaling more than five hundred dollars ($500); or

(2) of a kind commonly used in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise, and constituting, reflecting, or representing more than one hundred plays or chances therein or one play or chance wherein the winning amount exceeds five thousand dollars ($5,000).

(b) Possession of gambling records in the first degree is a class C felony.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5004], modified.

§ 5006. Possession of gambling records in the second degree.

(a) A person commits the offense of possession of gambling records in the second degree if the person knowingly possesses any writing, paper, instrument, or article:

(1) of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise; or

(2) of a kind commonly used in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise.

(b) Possession of gambling records in the second degree is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5005], modified.

§ 5007. Possession of a gambling device.

(a) A person commits the offense of possession of a gambling device if the person manufactures, sells, transports, places, possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody, or use of any gambling device, knowing it is to be used in the advancement of gambling activity that is not social gambling.

(b) Possession of a gambling device is a misdemeanor.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5006], modified.

§ 5008. Possession of gambling records; defense.

In any prosecution under 17 PNC Sections 5005 and 5006, it is a defense that the writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the advancement of gambling activity, except for records used in social gambling.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5007], modified.

Notes
Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 5009. Gambling offenses; prima facie evidence.

(a) Proof that a person knowingly possessed any gambling record specified in 17 PNC Sections 5005 and 5006 or any gambling device in 17 PNC Section 5007 is prima facie evidence that the person possessed the record or device with knowledge of its contents and character.

(b) In any prosecution under this chapter in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine, or other periodically printed publication of general circulation, shall be admissible in evidence and shall constitute prima facie evidence of the occurrence of the event.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5008], modified.

Notes
Sections referenced in this section has been renumbered to conform with the Code numbering format.

§ 5010. Forfeiture of property used in illegal gambling.

Any gambling device, paraphernalia used on fighting animals, or birds, implements, furniture, personal property, vehicles, vessels, aircraft, or gambling record possessed or used in violation of this chapter, or any money or personal property used as a bet or stake in gambling activity in violation of this chapter, may be ordered forfeited to the Republic of Palau, subject to the requirements of 17 PNC Chapter 7 of this Penal Code.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5009], modified.

§ 5011. Social gambling; definition and specific conditions, affirmative defense.

(a) "Social gambling" means gambling in which all of the following conditions are present:
  (1) players compete on equal terms with each other; and
  (2) no player receives, or becomes entitled to receive, anything of value or any profit, directly or indirectly, other than the player's personal gambling winnings; and
  (3) no other person, corporation, unincorporated association, or entity receives or becomes entitled to receive, anything of value or any profit, directly or indirectly, from any source, including but not limited to permitting the use of premises, supplying refreshments, food, drinks, service, lodging or entertainment; and
  (4) it is not conducted or played in or at a hotel, motel, bar, nightclub, cocktail lounge, restaurant, massage parlor, billiard parlor, or any business establishment of any kind, public parks, public buildings, public beaches, school grounds, churches or any other public area; and
  (5) none of the players is below the age of majority; and
  (6) the gambling activity is not bookmaking.

(b) Affirmative defense. In any prosecution for an offense described in 17 PNC Sections 5004, 5005, 5006 or 5007, a defendant may assert the affirmative defense that the gambling activity in question was a social gambling game as defined in 17 PNC Section 5011(a).

(c) If the defendant asserts the affirmative defense, the defendant shall have the burden of going forward with evidence to prove the facts constituting such defense unless such facts are supplied by the testimony of the prosecuting witness or circumstance in such testimony, and of proving such facts by a preponderance of evidence.

(d) In any prosecution for an offense described in this chapter the fact that the gambling activity involved was other than a social gambling game shall not be an element of the offense to be proved by the prosecution in making out its prima facie case.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5010], modified.

Notes
Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 5012. Exemption.

(a) Participation in any gambling game for the limited purposes of raising funds for a worthy cause or entertainment sponsored by any school, church organization, or non-profit organization shall be permitted.

(b) The operation of a Virtual Pachinko Business or an Internet Digits Lottery Game Business pursuant to a concession agreement entered into pursuant to 11 PNC Chapter 14 shall be permitted; provided that the internet site or sites of the Virtual Pachinko Business and Internet Digits Lottery Game Business are inaccessible to persons located within the Republic, and that Palauan citizens shall not be allowed to play Virtual Pachinko or the Internet Digits Lottery Game. The Internet Digits Lottery Game shall be blocked at any server located in Palau as well as on the software with a flashing screen that states:

This site cannot accept wagers or bets from within the Republic of Palau and this Internet Digits Lottery Game Operator will not pay any funds to any person located in the Republic of Palau.

(c) The Virtual Pachinko Game shall be locked at any server located in Palau as well as on the software with a flashing screen that states:

This site cannot accept wagers or bets from within the Republic of Palau and this Virtual Pachinko Operator will not pay any funds to any person located in the Republic of Palau.

Section Notes

Sources
RPPL 9-21 § 5 [Chapter 50 § 5011], modified.

Notes
The Code Commission has made technical changes to designate the undesignated text following subsection (b) as subsection (c) to conform to the Style of the Code.