

27 PNC 1101

PALAU FISHING AUTHORITY

27 PNC 1103

Chapter 11: Palau Fishing Authority

Subchapter I: General Provisions

- §1101. Short title.
- §1102. Purpose.
- §1103. Definitions.

§1101. Short title.

This chapter shall be known and may be cited as the "Palau Fishing Authority Act of 1980."

Source: PL 7-7-8 §1, modified.

§1102. Purpose.

The purpose of this chapter is to create a legal entity to promote, develop, and support commercial utilization of living marine resources within the internal waters of the Republic.

Source: PL 7-7-8 §2, modified.

§1103. Definitions.

In this chapter:

- (a) "Authority" means the Palau Fishing Authority.
- (b) "Board" means the board of directors of the Palau Fishing Authority.
- (c) "Internal waters" means the area landward of the inner boundary of the territorial sea, as defined in section 142 of this title.
- (d) "Manager" means the chief executive officer of the Palau Fishing Authority.

Source: New section.

Subchapter II: The Authority

- §1121. Authority; created.
- §1122. Same; duties and powers.
- §1123. Board of directors; composition; meetings; quorum; expenses.
- §1124. Manager; appointment.
- §1125. Same; powers and duties.
- §1126. Treasurer and attorney; duties.

27 PNC 1121.

FISHING

27 PNC 1122

§1121. Authority; created.

There is hereby created an authority to be called the Palau Fishing Authority. The Authority's functions shall be conducted in public and it shall have the right to sue and be sued in its own name.

Source: PL 7-7-8 §3, modified.

§1122. Same; duties and powers.

The Authority shall have the following duties and powers:

(a) The Authority shall make such recommendations as it deems appropriate to provide guidance to the national government in establishing marine resources development policy in any internal waters.

(b) The Authority shall have the power to adopt rules and regulations concerning its operations, as permitted by this chapter, with respect to living marine resources in any internal waters.

(c) The Authority shall serve as a conduit for public funds to establish and operate facilities required for commercial fisheries development, to conduct pilot fishing operations and to participate in large scale commercial fishing, including joint ventures, and related activities which are not suitable for investment by the private sector and which occur within internal waters.

(d) The Authority shall establish and support such programs as it deems appropriate, to promote, support and guide fishing cooperative associations with respect to activities whose primary objective involves fishing in any internal waters.

(e) The Authority shall help finance and support the development of locally owned private fishing enterprises whose primary objective involves fishing in any internal waters, and may make loans to accomplish the same.

(f) The Authority shall be empowered to act as an agent for the sale of supplies and provisions, including fuel, oil, water and food, to foreign fishing vessels lawfully permitted to enter a port within the Republic, provided that nothing in this chapter shall operate to deprive any existing or future agent for the sale of such supplies and provisions from the right to operate in a lawful fashion.

27 PNC 1122

PALAU FISHING AUTHORITY

27 PNC 1122

(g) The Authority may generally carry on the business of establishing, developing, maintaining, operating and managing facilities for the commercial utilization of marine resources in any internal waters, with all powers incident thereto.

(h) The Authority shall be authorized to purchase, lease, and sell real or personal property, supplies, goods, materials, and commodities and to furnish and supply services incidental to its operations. It may procure insurance against liability or loss in connection with its operations hereunder in such amounts and from such insurers as it deems advisable.

(i) The Authority, in operating facilities and properties owned, leased or controlled by it, may enter into contracts, leases, and other arrangements with any person for terms not exceeding 15 years, granting the privilege of using or improving such facilities and properties or a portion thereof or space therein for any utilization connected with marine resources purposes, and may confer the privilege of supplying goods, commodities, things, or facilities at such facilities or properties or of making available services to be furnished by the Authority or its agent at such facilities or properties. It shall determine the charges or rentals for the use of any facility or property under its management and control, and the terms and conditions under which the facility or property may be used. Charges shall be reasonable and uniform for the same class of service, and established with due regard to the value of the facility or property and improvements used and the expenses of the operation of the Authority. The Authority shall have and may enforce liens to enforce the payment of any such charges through appropriate judicial proceedings. The right to levy charges or rental for the use of the facility or property under its management shall be exclusively that of the Authority and all such charges and rental as well as other revenues of the Authority are to be applied as herein set forth.

(j) The Authority may contract with any person, firm or corporation for the planning, supervision, financing, construction, operation and maintenance of, or may itself construct or otherwise acquire, operate, and maintain all structures or improvements which in its judgement are useful, desirable or convenient in efficiently operating and maintaining facilities and properties. The Authority may also enter into

27 PNC 1122

FISHING

27 PNC 1122

agreements with the Trust Territory Government, the national government, and their departments and agencies, for the rendering of services performed by such departments and agencies to the Authority.

(k) The Authority shall have the free use of the national government pouch mail.

(l) The Authority, including, but not limited to, its franchise, capital, revenues, obligations, including interest thereon, reserves, surplus, loans, income, assets, and property of any kind shall be exempt from all licensing and taxation now or hereafter required or imposed by the national government or any taxing authority in the Republic. However, such exemption shall not apply to persons entering into independent contracts with the Authority.

(m) The Authority is authorized to apply for, accept, expend and repay monies made available by grant, loan, or both by the United States Government, the Trust Territory Government, other foreign governments or the United Nations, as permitted by law, or the national government for planning or accomplishing, in whole or in part, any of the purposes of this chapter. Unless otherwise prescribed by the agency from which such monies are received, the chief financial officer of the Authority shall deposit all monies received pursuant to this subsection in a separately denominated account.

(n) The Authority shall maintain such records, libraries, research materials, administrative or office materials and other property, real or personal, including, but not limited to, detailed records of fishery products harvested, deemed to be necessary to enable the Authority to carry out the purposes of this chapter. Upon the request of the manager, employees of the national government may be assigned by the President of the Republic to assist the Authority to carry out activities of the Authority as set forth herein. Expenses thereof, if any, shall be reimbursed by the Authority as may be required by the President in the assignment.

(o) The Authority may employ agents and employees, and contract for the services of qualified managers, specialists or experts, as individuals or as organizations, to advise and assist the Authority and its employees. The Authority may set its own compensation, wage and salary scales pursuant to chapter

27 PNC 1123

PALAU FISHING AUTHORITY

27 PNC 1123

1 of Title 30 of this Code.

(p) The Authority shall provide training and extension services, as appropriate, to any person, consistent with the provisions of this chapter.

Source: PL 7-7-8 §4, modified. Second clause of PL 7-7-8 §4(11), relating to the Authority's fiscal year, has been moved to §1142(a).

§1123. Board of directors; composition; meetings; quorum; expenses.

(a) All powers vested in the Authority shall be exercised by a board of directors, which shall consist of seven members. Members of the Board shall be appointed pursuant to subsection (b) of this section and shall hold membership on the Board for a period of two years, subject to reappointment, and until their successors have been appointed and qualify.

(b) The President shall appoint the members of the Board, with the advice and consent of the Olbiil Era Kelulau, as follows:

(1) Five members shall be appointed from among the members of all fishing cooperatives chartered throughout the Republic pursuant to provisions of this chapter.

(2) Two members shall be appointed from among the general public.

(c) All vacancies occurring on the Board shall be filled by the President for the unexpired term of the member whose vacancy is being filled.

(d) Within 15 days after the appointment of the initial Board, and annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year. The Board shall meet in public at least every three months and shall hold such other public meetings as it may deem necessary for the transaction of its general business.

(e) The Board shall organize by electing one of its members as chairman and another as vice chairman. The Board shall designate a secretary, who may or may not be a member of the Board itself, to keep the minutes and records of the Board.

27 PNC 1124

FISHING

27 PNC 1125

(f) Any four members of the Board shall constitute a quorum, and a concurrence of four members shall be necessary for any official action taken by the Board unless otherwise provided herein. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board.

(g) Members of the Board shall be entitled to reimbursement for actual expenses incurred in the performance of their official duties, upon approval of such expenses by the Board.

Source: Subsections (a) and (b) -- PL 7-7-8 §5; subsection (c) -- third sentence of PL 7-7-8 §6; subsection (d) -- first two sentences of PL 7-7-8 §6; subsections (e) through (g) -- PL 7-7-8 §7; section modified.

§1124. Manager; appointment.

The Board shall appoint a manager who shall be its chief executive officer and who shall serve at its pleasure. The Board shall fix the manager's compensation pursuant to chapter 1 of Title 30 of this Code. The manager shall have full charge and control of the operations of the Authority.

Source: PL 7-7-8 §8, modified.

§1125. Same; powers and duties.

The manager shall have the following duties and powers:

(a) To ensure that all rules and regulations of the Authority are enforced;

(b) To attend all meetings of the Board and to submit a general report of the affairs of the Authority;

(c) To keep the Board advised on the needs of the Authority;

(d) To approve demands for payment of obligations within the purposes and amounts authorized by the Board;

(e) To prepare or cause to be prepared all plans and specifications for the construction and repair of works and facilities operated by the Authority;

(f) To devote his entire time to the business of the Authority;

27 PNC 1126

PALAU FISHING AUTHORITY

27 PNC 1126

(g) To select and appoint the employees of the Authority except as otherwise provided in this chapter;

(h) To plan, organize, coordinate and control the services of employees of the Authority in the exercise of the powers of the Authority under the general direction of the Board;

(i) To contract with independent contractors, as persons, organizations, or corporations, to perform any of the tasks, work or other services of the Authority in lieu of hiring employees of the Authority to perform such services.

(j) To cause to be published all reports required by this chapter;

(k) To perform such other and additional duties as the Board may require; and

(l) To be an ex officio nonvoting member of the Board.

Source: PL 7-7-8 §9, modified.

§1126. Treasurer and attorney; duties.

The Board may appoint a treasurer and an attorney, both of whom shall serve at the pleasure of the Board and whose duties and compensation shall be fixed by the Board. The Board may appoint one or more assistants to any such office.

Source: PL 7-7-8 §10, modified.

Subchapter III: Administration of Authority

- §1141. Employee rights.
- §1142. Accounting and reporting.
- §1143. Authority account.
- §1144. Designation of depository for Authority.
- §1145. Bids for purchases and construction.
- §1146. Rules and regulations; publication of notice of adoption.
- §1147. Rules and regulations; effective date.
- §1148. Same; right to challenge.
- §1149. Assistance from national government.
- §1150. Insurance policies; liability of national government.
- §1151. Authority exempt from bond requirements.
- §1152. Authority not exempt from laws regulating investment by noncitizens.

27 PNC 1141

FISHING

27 PNC 1143

§1153. Penalties; in general.

§1154. Same; financial interest of members, officers and employees.

§1141. Employee rights.

The Board shall establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Authority pursuant to law.

Source: PL 7-7-8 §13.

§1142. Accounting and reporting.

(a) The Board shall adopt and maintain a system of accounting principles. The fiscal year of the Authority shall correspond to that of the national government.

(b) The Board may employ a firm of independent certified public accountants who shall examine and report to the Board, at least annually, upon the status of the financial records and accounts maintained by the Authority. Copies of any such reports shall be furnished to the President and the Olbiil Era Kelulau.

(c) The Board shall present an annual report on the financial affairs of the Authority within 60 days after the end of each fiscal year, and, if requested by the President or the Olbiil Era Kelulau, shall present special reports within 30 days after the end of the each intervening quarter.

(d) The Board shall report to the President and the Olbiil Era Kelulau annually on January 20 on its activities, plans, recommendations, policies, and other relevant information it deems appropriate.

(e) The Board may provide such data and services, in consultation with any agency of the national government, or person, as it deems appropriate.

Source: PL 7-7-8 §12 @1 and subsections (1) through (4), modified. Second sentence of subsection (a) is from PL 7-7-8 §4(11).

§1143. Authority account.

(a) There is hereby established an account in the National Treasury called the "Palau Fishing Authority Account." The Authority shall maintain this account

27 PNC 1144

PALAU FISHING AUTHORITY

27 PNC 1145

separate and apart from other accounts of the national government, and independent records shall be maintained in connection therewith.

(b) All monies received by the Authority pursuant to law shall be deposited in the Palau Fishing Authority account, or in such accounts as may be established pursuant to this chapter.

(c) All expenditures, except as otherwise provided by law, shall be made from the Palau Fishing Authority Account.

Source: PL 7-7-8 §12(5) through (7), modified.

§1144. Designation of depository for Authority.

The Board shall designate one or more banks within the Republic to serve as a depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks.

Source: PL 7-7-8 §22, modified.

§1145. Bids for purchases and construction.

(a) The purchase of all supplies and materials, and the construction of all works, when the expenditure exceeds \$5,000.00, will be by contract let to the lowest responsible bidder. Notice requesting the bids shall be published at least 10 days before bids are received. The Board may reject any and all bids and readvertise at its discretion.

(b) If, after rejecting bids for materials and supplies, the Board determines that, in its opinion, the materials and supplies may be purchased at a lower price in the open market, the Board may authorize such purchases without further observances of the provisions of subsection (a).

(c) The Authority, as an instrumentality of the national government, shall utilize the services of national purchasing agencies wherever practical.

(d) The provisions of this section shall not apply to the procurement of professional, advisory, or technical services.

Source: PL 7-7-8 §11, modified.

27 PNC 1146

FISHING

27 PNC 1149

§1146. Rules and regulations; publication of notice of adoption.

Whenever the Authority adopts rules or regulations it shall publish a notice of adoption. One notice may embrace any number of rules and regulations, and each notice must advise that breach of the particular rules or regulations is punishable and must state the possible punishment. Said notice must also state that the full text of the rules and regulations is on file at the principal office of the Authority, where the same may be read by any interested person during reasonable business hours. In addition to the notice of adoption of rules and regulations, a substantive statement shall be published, in condensed form, along with said notice, so as to afford a reasonable understanding of any act forbidden by the rules and regulations.

Source: PL 7-7-8 §18, modified.

§1147. Rules and regulations; effective date.

Fifteen days after the publication of the notice hereby required, the advertised rules and regulations shall be in full force and effect, and ignorance thereof shall not constitute a defense to prosecution for the enforcement of a penalty. The rules and regulations authorized hereby, after required publication, shall be judicially recognized by the courts as valid laws of the Republic.

Source: PL 7-7-8 §16, modified.

§1148. Same; right to challenge.

Any person substantially interested or affected in his rights as to property by a rule or regulation adopted by the Authority may petition the Authority for a reconsideration of such rule or regulation, or for an amendment, modification, or waiver thereof. Such petition shall set forth a clear statement of the facts and grounds upon which reconsideration, amendment, modification or waiver is sought. The Authority shall grant the petitioner a public hearing within 30 days after filing of said petition and a decision on said petition shall be publicly released not more than 20 days after the final public hearing held upon the petition.

Source: PL 7-7-8 §17, modified.

§1149. Assistance from national government.

For the purpose of aiding in the planning, undertaking or carrying out of the provisions of this chapter and of the provisions contemplated herein, and the subsequent operation of the Authority, the Authority may accept any financial

(text illegible)

27 PNC 1150

PALAU FISHING AUTHORITY

27 PNC 1150

agency may, if the President determines that such project will benefit and further the public purposes of the Republic:

(a) Dedicate, sell, convey, or lease any interest it may have in any real or personal properties, rights, or privileges to the Authority;

(b) Incur expenses on behalf of the Authority, subject to reimbursement under such terms and conditions as may be agreed upon with the Authority;

(c) Do any and all things necessary to aid or cooperate in the planning or carrying out of the duties, powers and obligations of the Authority;

(d) Lend, advance, grant or contribute funds to the Authority and provide for or waive the repayment of any such funds loaned or advanced;

(e) Contract with or furnish services of the Authority upon terms and conditions as may be agreed upon; and

(f) Enter into any agreements which may extend over any period of time.

Source: PL 7-7-8 §21, modified.

§1150. Insurance policies; liability of national government.

(a) To the extent that any liability of the national government, with respect to the Authority, or of the Authority is covered by a policy or policies of insurance, the national government waives its limitation of liability.

(b) All claims made against any policy of insurance purchased by the Authority shall be made in accordance with the procedures and time limitations set forth in the policy or policies of insurance, except that:

(1) All claims shall be presented to the manager of the Authority, who shall promptly present the same to the insurance carrier, carriers, or to their designated agents for processing, and

27 PNC 1151

FISHING

27 PNC 1154

(2) No policy shall place a time limit on filing claims of less than six months.

(c) Each policy of insurance written covering the Authority or its interest shall contain a clause waiving any defense of sovereign immunity which may be raised against the payment of the claim by the carrier up to the limits of the policy.

Source: PL 7-7-8 §14, modified.

§1151. Authority exempt from bond requirements.

The Authority shall not be required to give any bond as security for costs, supersedeas, or any security in any suit or action brought by or against it, or in proceedings to which it may be a party in any court in the Republic. It shall have the remedies of appeal and writ of error to all courts without bonds, supersedeas, or security of any kind.

Source: PL 7-7-8 §20, modified.

§1152. Authority not exempt from laws regulating investment by noncitizens.

Nothing in this chapter shall be deemed to exempt any operation, venture, joint venture, contract, lease, arrangement, service, or other activity of any description whatsoever of the Authority, or any person or entity receiving its assistance, from any requirements of any law or regulation with respect to investment by noncitizens in the Republic.

Source: PL 7-7-8 §23, modified.

§1153. Penalties; in general.

Any person who violates any provision of this chapter, or any valid rule or regulation promulgated under this chapter, concerning the operation of the Authority, is, on conviction, punishable by a fine of not to exceed \$1,000.00, or by imprisonment not to exceed three months, or both.

Source: PL 7-7-8 §15, modified.

§1154. Same; financial interest of members, officers and employees.

(a) No Board member, officer, or employee of the Authority, either for himself or as agent for anyone else, shall benefit directly or indirectly by reason of any sale, purchase, contract or transaction entered into

27 PNC 1154

PALAU FISHING AUTHORITY

27 PNC 1154

by the Authority except as otherwise provided by this chapter, and provided that this section shall not apply to a Board member who owns less than five percent of the entire capital stock of a corporation which benefits directly or indirectly from a transaction.

(b) Any person who shall directly or indirectly become interested in any such sale, purchase, contract or transaction while serving as a Board member, officer, or employee of the Authority shall be guilty of a misdemeanor. Upon the filing of complaint of such misdemeanor, the Board, in its discretion, may suspend the services of the charged person pending final determination thereof. Upon conviction thereof, he shall forfeit his position or office and shall be punished by a fine not to exceed \$2,000.00, or by imprisonment not to exceed one year, or both.

Source: PL 7-7-8 §19, modified.