

CHAPTER 8

Marine areas

Section

8-101 Rights in areas below high watermark

42 PC 8-101. Rights in areas below high watermark.

(1) That portion of the law established during the Japanese administration of the area which was the Trust Territory, that all marine areas below the ordinary high watermark belong to the government, is hereby confirmed as part of the law of the Pohnpei, with the following exceptions:

(a) Such rights in fish weirs or traps (including both types erected in shallow water and those sunk in deep water) and such rights to erect, maintain, and control the use of these weirs or traps as were recognized by local customary law at the time the Japanese administration abolished them, are hereby reestablished; PROVIDED that no weirs or traps or other obstruction shall be erected in such locations as to interfere with established routes of water travel or those routes which may hereafter be established.

(b) The right of the owner of abutting land to claim ownership of all materials, coconuts or other small objects deposited on the shore or beach by action of the water or falling from trees located on the abutting land, and such fishing rights on, and in waters over reefs where the general depth of water does not exceed four feet at mean low water as were recognized by local customary law at the time the Japanese administration abolished them, are hereby reestablished where such rights are not in conflict with the inherent rights of the government as the owner of all marine areas below the ordinary high watermark; PROVIDED, HOWEVER, that this section shall not be construed to apply to any vessel wrecked or stranded on any part of the reefs or shores of Pohnpei.

(c) The owner of land abutting the ocean or lagoon shall have the right to fill in, erect, construct, and maintain piers, buildings or other construction on or over the water or reef abutting his land and shall have the ownership and control of such construction; PROVIDED, that said owner first obtains written permission of the Board of Trustees of the Pohnpei Public Lands Trust before beginning such construction.

(d) Each of the rights described in Paragraphs (a), (b), and (c) of this subsection are hereby granted to the person or group of persons who held the right at the time it was abolished by the Japanese administration, or to his or their successor or successors in interest. The extent of each right shall be governed by the local customary law in effect at the time it was abolished.

(e) Nothing in the foregoing subsections of this section shall withdraw or disturb the traditional and customary right of the individual land owner, clan, family or local government

to control the use of, or material in, marine areas below the ordinary high watermark, subject only to, and limited by, the inherent rights of the government as the owner of such marine areas. The foregoing Paragraphs of this subsection shall create no right in the general public to misuse, abuse, destroy or carry away mangrove trees or the land abutting the ocean or lagoon, or to commit any act causing damage to such mangrove trees or abutting land.

(f) Any legal interest or title in marine areas below the ordinary high watermark specifically granted to an individual or group of individuals by the Trust Territory or any previous administering authority, or recognized as a legal right or rights, shall not be affected by this section.

(2) Written notice of any legal interest or title must be filed with the district land office of the district in which it is claimed within two years from January 8, 1958. The validity of the claimed legal interest or title shall be determined by the district land officer after notice to the person making the claim or any other known parties in interest, and an opportunity for hearing, in the same manner and with the same rights of appeal as in the case of claims to land which the government had possession of under claim of ownership.

Source: TTC §32 (1966); 67 TTC §2 (1970); 67 TTC §2 (1980)