

### Source

PL 6-7-14 § 14(11), as added by PL 6-6S-8 § 6, modified. Amended by RPPL 5-7 § 34(2)(p) on 10/3/97, effective 10/1/97. Further amended by RPPL 5-8 § 3(j), approved 11/5/97. Amended by RPPL 6-36 § 2[172].

### § 173. Foreign fishing companies to utilize local vendors for goods and services.

Any foreign party to a foreign fishing agreement executed pursuant to Title 27 of the Palau National Code shall, to the extent practicable during the term of such agreement, purchase all goods and services for use in the Republic of Palau from citizens of the Republic of Palau or partnerships or corporations wholly-owned by citizens of Palau, unless such goods or services are not reasonably available from such sources.

### Source

RPPL 5-8 § 4.

## Subchapter V

### Enforcement and Penalties

- § 181. Prohibited acts.
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### § 181. Prohibited acts.

It is unlawful for any person:

- (a) to violate any provision of this chapter or of any regulation or permit issued pursuant to this chapter;
- (b) to use any fishing vessel to engage in fishing after revocation, or during the period of suspension, of an applicable permit issued pursuant to this chapter;
- (c) to violate any provision of, or regulations under, an applicable foreign fishing agreement entered into pursuant to sections 161, and 167 through 172 of this title;

(d) to refuse to permit any officer authorized to enforce the provisions of this chapter to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter or any regulation, permit, or agreement referred to in subsections (a), (b), or (c) of this section;

(e) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subsection (d) of this section;

(f) to resist a lawful arrest for any act prohibited by this section;

(g) to knowingly ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of any fish taken or retained in violation of this chapter or any regulation, permit, or agreement referred to in subsections (a), (b), or (c) of this section;

(h) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such person has committed any act prohibited by this section;

(i) to use any foreign fishing vessel to fish, as that term is defined in 27 PNC Chapter 12, for any reef fish, turtle, ray, or marine mammal, or any part of any such fish or marine mammal, or otherwise intentionally mutilate or injure any such fish or marine mammal. If any such fish or marine mammal is inadvertently caught or captured alive, it shall be released in the manner that affords it the greatest opportunity for survival;

(j) to use steel leader as fishing gear on any foreign fishing vessel or to possess steel leader on any foreign fishing vessel while in the internal waters, territorial sea, or contiguous or exclusive economic zones of the Republic; or

(k) to use any foreign fishing vessel to fish, as that term is defined in 27 PNC Chapter 12, for any shark, or any part of any such, or to remove the fins of or otherwise intentionally mutilate or injure any such shark. If any shark is inadvertently caught or captured, it shall be immediately released, whether dead or alive; if the shark is caught or captured alive, it shall be released in the manner that affords it the greatest opportunity for survival.

#### Source

PL 6-7-14 § 15(1), modified. PL 6-7-14 § 15(2), prohibiting any vessel other than a vessel owned solely by citizens of Palau from fishing in the territorial sea, was repealed by PL 6-6S-8 §

5. Subsections (i), (j), and (k) were added by RPPL 6-36 § 2[181].

#### Notes

Flaga v. ROP, 8 ROP Intrm. 79, 80 (1999).

Gotina v. ROP, 8 ROP Intrm. 65 (1999).

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Gotina v. ROP, 8 ROP Intrm. 56, 58, 59 (1999).

**§ 182. Criminal penalties.**

(a) A person is guilty of an offense if he commits any act prohibited by section 181 of this title.

(b) Any offense described as a prohibited act by section 181 ( a), (b), (c), (i), (j), or (k) is punishable by a fine of not more than \$250,000.

(c) Any offense described as a prohibited act by section 181 (d), (e), (f), (g), or (h) is punishable by a fine of not more than \$500,000 for each violation; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this chapter, or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$1,000,000 for each violation. Each day of continuing violation shall be considered a separate offense.

(d) These penalties shall be levied in addition to any other penalties that may be applicable under other statutes.

**Source**

PL 6-7-14 § 16, as amended by PL 6-6S-8 § 7(a), modified. Subsections (b) and (c) amended by RPPL 6-36 § 2[182], modified.

**Notes**

Gotina v. ROP, 8 ROP Intrm. 65, 66 (1999).

Gotina v. ROP, 8 ROP Intrm. 56, 59 (1999).

**§ 183. Civil penalties.**

↙ (a) Any person who is found by the Supreme Court in a civil proceeding to have committed an act prohibited by section 181 of this title shall be liable to the national government for a civil penalty which shall not exceed \$500,000 for each violation. Each day of continuing violation shall constitute a separate offense.

(b) In determining the amount of such penalty, the Supreme Court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violators, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(c) The Attorney General, or any person residing within the Republic, is authorized to initiate proceedings under this section and to recover the amount assessed as a civil penalty and to obtain injunctive relief to prevent violations of law or to compel compliance with law.

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(d) The proceeds of civil penalties shall be remitted to the National Treasury in accordance with section 185 and section 189 of this title.

(e) Before initiating a civil proceeding pursuant to subsection (c), a resident of the Republic shall file with the Attorney General a written request for the Attorney General to initiate the proceeding. The request shall include a statement of grounds for believing a cause of action exists. The Attorney General shall respond within 30 days after receipt of the request indicating whether he or she will initiate a proceeding under subsection (c). If the Attorney General files a complaint within that 30-day period, no further proceeding may be brought by the informant unless the proceeding brought by the Attorney General is dismissed without prejudice and is not re-filed by the Attorney General within 60 days thereafter.

#### Source

PL 6-7-14 § 16, as amended by PL 6-6S-8 § 7(b), modified. Subsection (c) amended by RPPL 5-7 § 34(2)(t) on 10/3/97, effective 10/1/97. Subsections (a), (c), and (d) were amended and subsection (e) added by RPPL 6-36 § 2[183].

#### Notes

Gotins v. ROP, 8 ROP Intrm. 56, 59 (1999).

### § 184. Forfeitures; procedure.

(a) Any fishing vessel, including its fishing gear, furniture, appurtenances, stores, and cargo used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 181 of this title, shall be subject to forfeiture to the national government. All or part of such vessel, and all such fish, shall be forfeited to the national government pursuant to a civil proceeding under this section.

(b) The Supreme Court shall have jurisdiction, upon application by the Attorney General on behalf of the national government, to order any forfeiture authorized under subsection (a) of this section.

(c) If a judgment is entered for the national government in a civil forfeiture proceeding under this section, the Attorney General shall seize any property or other interest declared forfeited to the national government which has not previously been seized pursuant to this chapter.

(d) The forfeited vessel, gear, furniture, appurtenances, stores, cargo, and fish may be sold and the proceeds deposited with the Authority for use in accordance with section 185 of this title, or may be retained for use by or at the direction of the national government.

(e) Pending completion of the civil forfeiture proceeding, the seized vessel, gear, furniture, appurtenances, stores, cargo, and fish, or any part thereof, may be discharged at the discretion of the court upon deposit with the court of a satisfactory bond or other

security at least equal to the fair market value of the seized property. Such bond or other security shall be conditioned upon delivery of such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgement shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

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

(g) For purposes of this chapter, it shall be a rebuttable presumption that any fish or steel leader found on board a fishing vessel which is seized in connection with an act prohibited by section 181 of this title was taken, or retained, or used in violation of this chapter.

(h) The Attorney General shall commence forfeiture proceedings on a fishing vessel used in any manner in connection with an act prohibited by this chapter if the owner of that vessel is unable to pay all civil or criminal penalties levied for violations of this chapter.

**Source**

PL 6-7-14 § 17, modified. Subsection (b) amended by RPPL 5-7 § 34(2)(q) on 10/3/97, effective 10/1/97. Subsection (g) was amended and subsection (h) was added by RPPL 6-36 § 2[184].

**§ 185. Revenues.**

All revenues, including fees collected pursuant to section 169 and all fines and proceeds of sale of all forfeitures shall be transmitted immediately upon collection to the National Treasury.

**Source**

PL 6-7-14 § 18, modified. Amended by RPPL 5-7 § 34(2)(r) on 10/3/97, effective 10/1/97.

**§ 186. Jurisdiction of court.**

The Supreme Court shall have exclusive jurisdiction over any case or controversy arising under this chapter. The court may at any time enter restraining orders or prohibitions, issue warrants, process in rem, or other processes, prescribe and accept satisfactory bonds or other security, and take such other actions as are in the interests of justice.

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**Source**

PL 6-7-14 § 19, modified.

**§ 187. Enforcement; primary responsibility.**

*PL 6-7-14 § 19, modified.*

Primary responsibility for the enforcement of this chapter shall be assumed by the Office of the Attorney General through the Bureau of Public Safety. The President and the Attorney General may, from time to time, seek enforcement assistance from the United States Government, or from any other foreign government, international agency or non-governmental agency.

**Source**

PL 6-7-14 § 20(1), modified. Amended by RPPL 5-7 § 34(2)(s) on 10/3/97, effective 10/1/97.

**§ 188. Same; powers of officer.**

Any officer who is authorized by the Attorney General to enforce the provisions of this chapter may:

(a) with or without a warrant or other process:

- 1) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 181 of this title;
- 2) board and search or inspect any fishing vessel which is subject to the provisions of this chapter;
- 3) seize any fishing vessel when the vessel has been used or employed in, or when it reasonably appears that such vessel was used or employed in, violation of any provision of this chapter;
- 4) seize any fishing gear, furniture, appurtenances, stores, cargoes, and fish in the possession of a fishing vessel seized pursuant to authority granted by paragraph (3) of this subsection; and
- 5) seize any other evidence related to any violation of any provision of this chapter.

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

(c) exercise any other lawful authority.

**Source**

PL 6-7-14 § 20(2), modified.

**§ 189. Same; reward.**

Any individual who provides information to the Attorney General concerning any violation of this chapter which results in the imposition of any penalty under section 182 or 183 of this title shall be paid 50 percent of any such penalty imposed and collected. Any individual who initiates a civil proceeding pursuant to section 183 of this chapter shall receive from the national government an amount equal to fifty percent of the civil penalties actually collected, and shall be entitled to recover from the defendants his costs of litigation, including reasonable attorneys' fees.

**Source**

PL 6-7-14 § 20(3), modified. Amended by RPPL 6-36 § 2[189].

**§ 190. Same; provisions of regulation or permit enforceable.**

For purposes of this chapter, the terms "provisions of this chapter" and "violation of any provisions of this chapter" include the provisions of any regulation or permit issued pursuant to this chapter.

**Source**

PL 6-7-14 § 20(4), modified.

**Chapter 2**

**Monitoring of Foreign Vessels in Exclusive Economic Zone**

§ 201. Legislative findings.

§ 202. Definitions.

§ 203. Requirement of automatic location communicator.

§ 204. Input of information; judicial presumption.

§ 205. Tampering with, failing to operate, or destruction of an automatic location communicator.

§ 206. Confidentiality and security of automatic location communicator information.

§ 207. Ownership of vessel monitoring system information.

**§ 201. Legislative findings.**

The Olbiil Era Kelulau finds that the Republic of Palau lacks the necessary personnel to effectively prevent and police incidents of illegal fishing in the Republic's exclusive economic zone. The Olbiil Era Kelulau further finds that it is in the best interest of the Republic to develop an efficient system for monitoring, control and surveillance in order to prevent illegal fishing by foreign vessels. The Olbiil Era Kelulau further finds that it would be in the best interest of the Republic to require all foreign fishing vessels to be equipped with functioning automatic location communicators to assist in the effective surveillance of the exclusive economic zone of the Republic.

**Source**

RPPL 5-36 § 1.

**§ 202. Definitions.**

As used in this chapter:

(a) "Automatic location communicator" or "communicator" means any device or machine placed on a foreign fishing vessel, which transmits information or data