
AN ACT

To create the Protected Areas Network Act; to repeal Chapter 32 of 24 PNC; and for other related purposes.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIIL ERA KELULAU DOENACT AS FOLLOWS:

1 Section 1. Legislative findings. The islands that make up Palau together form one of the
2 most environmentally diverse regions in Micronesia. Our islands possess unique geological features
3 and distinctive freshwater, marine, and terrestrial ecosystems, including plants, animals and other
4 organisms, many of which occur nowhere else in the world. All of these natural resources are highly
5 vulnerable to loss or destruction by the growth of population and development. The Olbiil Era
6 Kelulau finds that Palau is in critical need of a nationwide system to support the states' efforts in
7 protecting these natural resources. The crucial first step is to identify representative high biodiversity
8 areas and unique marine and terrestrial sites for priority treatment as parts of a nationally recognized
9 network of protected areas. This legislation, the Protected Areas Network Act, will encourage and
10 support the states in the designation of new protected areas. Until now, states have designated
11 protected areas, but there has been no system by which the national government recognized these
12 areas or assisted the states in identifying, designating and maintaining these valuable resources. A
13 nationwide approach is necessary to ensure that examples of the full range of biodiversity are
14 preserved in protected areas across Palau and that the unique natural beauty and precious resources
15 for which Palau is internationally recognized will not be lost or destroyed.

16 The Protected Areas Network Act will better enable the national government to assist the
17 states in several ways. This will include technical assistance to those states that seek to designate
18 areas of significant biodiversity and unique habitats for protection by facilitating access to grant
19 monies and programs for which the individual states are not ordinarily eligible. Thus, the national
20 government will act as a conduit for funding that is destined to aid the states. The national system
21 will also facilitate cooperation among the states where areas of high biodiversity and unique habitats
22 cross state boundaries.

1 The current vehicle for state designation of natural resource areas, the Natural Heritage
2 Reserve System, 24 PNC Chapter 32, does not include significant incentive or support systems for
3 states to participate in the program and has not been used by states to protect the ecosystems within
4 their boundaries. Accordingly, 24 PNC Chapter 32 should be repealed based on our belief that the
5 new Protected Areas Network Act will be more effective in meeting our national environmental
6 protection goals and providing national recognition and support for protected areas.

7 Section 2. Repealer. 24 PNC Chapter 32 is hereby repealed.

8 Section 3. Amendments. 24 PNC is amended to add a new Chapter 33 to read as
9 follows:

10 "Chapter 33

11 Protected Areas Network Act

12 Section 3301. Short title. This chapter shall be known and may be cited as the "Protected
13 Areas Network Act" of the Republic of Palau.

14 Section 3302. Findings and declaration of necessity. The Olbiil Era Kelulau finds and
15 declares that:

16 (a) the Republic of Palau possesses unique natural resources such as geological features
17 and distinctive plants, animals, and other organisms, many of which occur nowhere else in the world.
18 that are highly vulnerable to loss by the growth of population and development;

19 (b) Palau's unique plants and animals exist in the context of a full range of ecosystems
20 and communities found in Palau, and thus, these ecosystems themselves must be protected as well;

21 (c) as the exclusive owners of all living and non-living resources from land to twelve (12)
22 nautical miles seaward from the traditional baseline, state governments bear the principal
23 responsibility for the management, protection, and development of all resources within their
24 respective boundaries. States, therefore, must be encouraged and supported by the national
25 government in their efforts to protect biodiversity in the Republic through the creation of protected
26 areas;

1 (d) state designated terrestrial, freshwater, and marine areas that support unique
2 communities of natural plants, animals, and other types of organisms, areas of high biodiversity,
3 significant geological sites, as well as other important habitats suitable for preservation must be
4 encouraged, recognized, and supported by the national government; and

5 (e) a nationwide Protected Areas Network will allow the national government to assist
6 states in the protection of significant areas of biodiversity, significant habitats, and other valuable
7 resources that are important to the future stability and health of Palau.

8 Section 3303. Definitions.

9 (a) "Ecosystem" means a dynamic complex of plant, animal, and micro-organism
10 communities and their non-living environment interacting as a functional unit.

11 (b) "Person" means any and all persons, natural or artificial, foreign or domestic,
12 including any individual, association, firm, partnership, business, corporation, joint venture,
13 principal, agent, partnership, company, or any other entity recognizable at law or equity, including
14 (without limitation) any foreign governmental entity and all political subdivisions, regions, districts,
15 municipalities, and public agencies thereof.

16 (c) "Protected" means maintained, intact, preserved, conserved, or otherwise managed
17 in a sustainable manner.

18 (d) "Protected area" means an area designated through a state or national process to be
19 protected, and recognized by the National Government through the Ministry of Resources and
20 Development as part of the Protected Areas Network.

21 Section 3304. Protected Areas Network. There shall be a nationwide Protected Areas
22 Network of the Republic of Palau which shall consist of areas in the Republic which a state, or
23 states, or the national government has or have designated as reserves, protected areas, or refuges, and
24 which have been designated by the Ministry of Resources and Development in the manner
25 hereinafter provided. Each state, in consultation with the Ministry of Resources and Development,
26 will be responsible for the management of the areas within its borders that are designated as part of
27 the Protected Areas Network. Each state will be eligible for assistance and support under this Act

1 for those protected areas included within the Protected Areas Network. The Protected Areas Network
2 shall be administered and managed by the Ministry of Resources and Development in consultation
3 with state government officials.

4 Section 3305. Categories of protected areas. The Ministry of Resources and Development,
5 in consultation with state government officials, shall, for the sole purpose of designation within the
6 Protected Areas Network, designate areas under a set of uniform categories that encompasses a range
7 of management purposes and uses, from sustainable resources use through full protection.

8 Section 3306. Powers and duties of the National Government. The Republic, primarily
9 through the Ministry of Resources and Development, shall have, among others, the following powers
10 and duties:

11 (a) to provide for rules and regulations outlining the process for an area's designation as
12 part of the Protected Area Network, to effect the purposes of this chapter, and to enforce such
13 regulations, which shall have the force and effect of law;

14 (b) to establish criteria for the selection of an area to be included in the Protected Area
15 Network that will incorporate the following considerations: biogeographic importance, ecological
16 considerations, naturalness, economic importance, social importance, scientific importance,
17 international or national significance, feasibility of management and protection, duality or
18 replication;

19 (c) to determine reasonable conditions for the ongoing inclusion of an area in the
20 Protected Area Network;

21 (d) to investigate and develop mechanisms for sustainable financing of protected areas
22 in the Protected Area Network;

23 (e) to accept and disburse appropriations, loans, and grants from the Republic of Palau,
24 foreign governments, the United Nations, or any agency thereof and other sources, public and
25 private, which appropriations, loans, and grants shall not be expended for other than the purposes
26 of this chapter;

1 (f) to collect information and establish record keeping, monitoring, and reporting
2 requirements as necessary and appropriate to carry out the purposes of this chapter; and

3 (g) to provide technical assistance to state governments for management of their
4 protected areas including, but not limited to, assistance in surveying, developing site preservation
5 plans, identifying and establishing sustainable use practices, conducting scientific investigations, and
6 educating the public about preservation and protected areas.

7 Section 3307. Powers and duties of the states. Each state shall have the following powers
8 and duties, together with and not in lieu of any other powers and duties granted to the states under
9 existing state and national law:

10 (a) to nominate areas within the state's borders that have been designated refuges,
11 protected areas, or preserves under state or national law for inclusion in the Protected Areas
12 Network;

13 (b) to nominate, at the request of and with the written consent of a private landowner or
14 title holder, private lands for inclusion in the Protected Areas Network;

15 (c) to apply for financial aid and technical support in developing, managing, designating,
16 or nominating for inclusion in the Protected Areas Network eligible areas within the state;

17 (d) to develop management plans for such areas, and if an area is designated as part of
18 the Protected Areas Network, to develop such plans in conjunction with the Ministry of Resources
19 and Development;

20 (e) to manage areas within the Protected Areas Network; and

21 (f) to withdraw from participation in the Protected Areas Network according to the
22 procedures set forth in regulations.

23 Section 3308. Rules and regulations. The Ministry of Resources and Development shall
24 make regulations pursuant to the Administrative Procedure Act, 6 PNC Chapter 1, governing the
25 recognition of the areas nominated by states as protected areas and the operation of the Protected
26 Areas Network, provided that no rule or regulation which relates to the permitted use of any area
27 shall be applied to a state protected area unless such rule or regulation shall also have been

1 specifically approved by the appropriate state government officials pursuant to and in accordance
2 with all applicable law. Should a state object to the application of a rule or regulation proposed by
3 the national government in relation to a protected area, the provisions of 24 PNC 3309 will apply.

4 Section 3309. Dispute resolution.

5 (a) Any dispute between two or more states or between one or more states and the
6 national government regarding the designation or management of a protected area or related to the
7 funding of a protected area which is not settled by good faith negotiation, shall, at the request of one
8 of them, be submitted to mediation.

9 (b) Each party shall nominate a person to select a mediator, and the two nominees shall
10 select a third person to serve as the mediator.

11 Section 3310. Enforcement. Any person who violates state or national laws or any rules,
12 regulations, or procedures promulgated pursuant to this chapter, may be prosecuted by the Attorney
13 General's Office as well as the applicable state authorities. All laws and regulations with relation
14 to a nationally designated protected area, whether established by state or national authorities, may
15 be enforced by the Ministry of Justice, Bureau of Public Safety, state and national law enforcement
16 officers, or such personnel of the Ministry of Resources and Development as the Minister so
17 designate.

18 Section 3311. Criminal penalties. Any person who is convicted of a violation of this chapter
19 or regulations in relation to a nationally designated protected area may be sentenced to imprisonment
20 for a term of up to 1 year, or fined not less than \$500, or both. Any person convicted of a second
21 violation may be sentenced to imprisonment for a term of up to 2 years, or fined not less than \$2,500,
22 or both. Subsequent violations shall carry a penalty of up to 5 years imprisonment and a fine of up
23 to \$10,000, or both.

24 Section 3312. Civil penalties.

25 (a) Civil penalties are separate from criminal punishment and a civil enforcement action
26 may be filed independently of or in addition to a criminal prosecution.

1 (b) Any person who is found by the Supreme Court in a civil proceeding to have
2 committed an act prohibited by this chapter, his employer, principal, superior, or supervisor if the
3 violation was committed as part of a commercial operation or enterprise, and any person who aids
4 or abets in such violation, shall be liable to the affected state and national government to pay civil
5 damages for each violation in an amount sufficient to compensate for the harm done to the Protected
6 Area and to deter the prohibited acts in the future. The Supreme Court may also award such
7 declaratory and equitable relief the Court determines is just and proper.

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

12 (d) The state in which the violation occurred is authorized to initiate all civil proceedings
13 under this chapter and to recover the amount assessed as a civil penalty.

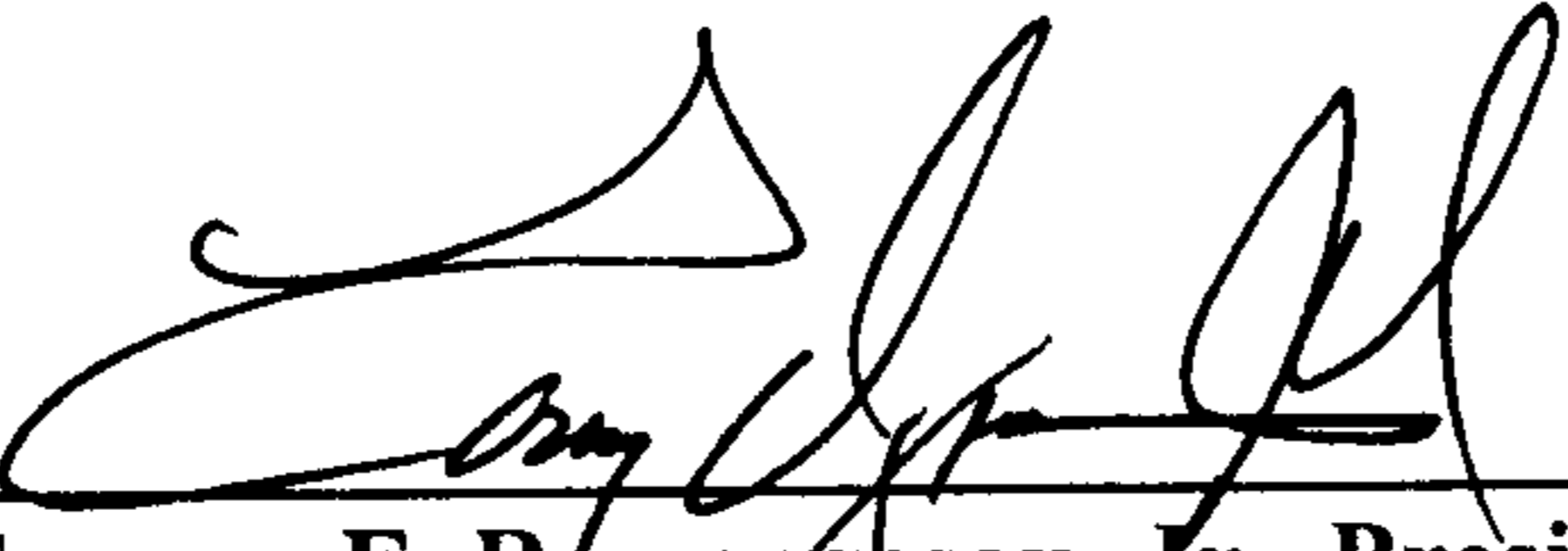
14 (e) If the state declines to bring suit, it shall notify the Attorney General in writing within
15 90 days of the violation. The Attorney General may initiate all civil proceedings under this chapter
16 at any time more than 90 days after the alleged violation, regardless of whether the state has declined
17 in writing to prosecute the matter.

18 (f) Any person who violates this chapter shall be liable in a civil action brought by a
19 person residing within the Republic or the national government or any state government or division
20 thereof. If a judgment is entered against the defendant in an action brought by a resident of the
21 Republic, the plaintiff shall receive 50% of the amount recovered and shall be entitled to recover
22 from the defendant the plaintiff's costs of litigation, plus reasonable attorneys' fees. The remaining
23 50% of the amount recovered shall be deposited into the National Treasury. Before a resident may
24 bring an action pursuant to this section, the resident must submit a written request to the Attorney
25 General asking that the Attorney General bring a civil action. If the Attorney General fails to bring
26 a civil action within 60 days after receipt of the written request, the resident may thereafter bring a
27 civil action pursuant to this section."

1 Section 4. Effective date. This Act shall take effect upon its approval by the President,
2 or upon becoming law without such approval, except as otherwise provided by law.

PASSED: November 07, 2003

Approved this 26th day of November, 2003



Tommy E. Remengesau, Jr., President
Republic of Palau