

# Palau National Code (PNC)

## REPUBLIC OF PALAU

### TITLE 14 CIVIL PROCEEDINGS

#### DIVISION 1 CIVIL PROCEDURE

##### Chapter 1 Process

##### Subchapter I Issuance, Service and Return

- § 101. Definition.
- § 102. Issuance of process; designation of private persons.
- § 103. Service and execution of process.
- § 104. Return of service or execution.

##### **§ 101. Definition.**

In this title, "process" shall include all forms of writs, warrants, summonses, citations, libels, and orders used in judicial proceedings.

##### **Source**

6 TTC § 1(1), modified.

##### **§ 102. Issuance of process; designation of private persons.**

The court issuing any process in any proceeding may specially appoint and name in the process any person it deems suitable to execute or serve the process, except that a witness summons may not be served by a party or by a person who is less than 18 years of age. A private person to whom a process is directed for service or execution shall, upon acceptance of the said process, be responsible for the proper execution of service of such process according to law. No private person shall be compelled by any court or official to accept a process directed to him for service or execution. The special appointments authorized by this section shall be used freely when this will effect a saving of time or expense.

**Source**

(Code 1966, § 249(a) and (c).) 6 TTC § 1(2), modified.

**§ 103. Service and execution of process.**

Every official who is made responsible by law for the service or execution of process and every private person who accepts the responsibility for the service or execution of process shall serve or execute such process as prescribed by law within a reasonable time after the receipt of such process unless prevented from doing so by conditions beyond his control.

**Source**

(Code 1966, § 250.) 6 TTC § 2.

**§ 104. Return of service or execution.**

The Director of the Bureau of Public Safety or policemen shall certify, and a private person shall report under oath, or affirm by endorsement on or attached to every process delivered to him for execution or service, the manner and time of such execution or service or the reason for failure to make such execution or service. The process so endorsed, together with a statement of all fees and expenses charged, shall be returned without delay to the court or official by which issued. In no event shall the process be returned later than the date specified by the issuing court or official.

**Source**

(Code 1966, § 251.) 6 TTC § 3, modified.

**Subchapter II  
Fees and Costs**

§ 131. Fees.

§ 132. Prepayment for service.

§ 133. Disposition of proceeds.

**§ 131. Fees.**

Any qualified person authorized to execute or serve process, other than a member of the Bureau of Public Safety executing or serving a process in criminal or civil contempt proceedings, or in juvenile delinquency proceedings, shall be entitled to collect the following fees for duties performed by him:

- (a) for serving any form of process, \$1.00 plus \$0.03 per mile for any travel actually performed and necessary in connection with the service. Any process delivered to the Director of the Bureau of Public Safety or any policeman shall be sent by him to a

policeman who is located where he can serve it more quickly or with less travel;

(b) for levying a writ of execution and making a sale thereunder, the fees provided above for serving of any process, plus \$5.00 for conducting the sale, and \$0.05 for every \$1.00 collected up to \$50.00, and \$0.02 for every \$1.00 collected over \$50.00.

(c) in addition to the above, such qualified person shall be allowed his actual, reasonable and necessary expenses for caring for any property seized under an attachment or levy of execution; provided, however, that no caretaker or watchman shall be allowed in excess of \$1.00 for each 12 hours of service.

**Source**

(Code 1966, §§ 256 and 249(b).) 6 TTC § 31, modified.

**§ 132. Prepayment for service.**

Except when the process is issued on behalf of the Republic or an officer or agency thereof, the qualified person authorized to serve or execute process may require the person requesting him to act to prepay his fees and estimated expenses or give reasonable security therefor before serving or executing any process.

**Source**

(Code 1966, § 257.) 6 TTC § 32, modified.

**§ 133. Disposition of proceeds.**

The qualified person authorized to serve or execute process, shall be entitled to retain for his own use the fees authorized in this subchapter, provided he is not an employee of the Republic as a member of the Bureau of Public Safety or otherwise when the services are performed. If he is such an employee, he shall remit monthly to the Director of the Bureau of National Treasury all fees collected for services and travel in servicing or executing process, less any reasonable expenses actually paid by him personally for travel in connection with these duties.

**Source**

(Code 1966, § 258.) 6 TTC § 33, modified.

**Subchapter III****Long Arm Jurisdiction and Service of Process Act**

§ 141. Short title.

§ 142. Jurisdiction over acts of nonresidents.

§ 143. Service outside Palau.

§ 144. Manner of service.

§ 145. Default judgment.

§ 146. Effect of jurisdiction limited.

§ 147. Effect of subchapter on other method of service.

**§ 141. Short title.**

This subchapter may be cited as the ALong Arm Jurisdiction and Service of Process Act of 1982.

**Source**

RPPL 1-26 § 1, modified.

**§ 142. Jurisdiction over acts of nonresidents.**

Any persons, corporation or legal entity, whether or not a resident of the Republic, who in person or through an agent does any of the acts enumerated in this section thereby submits to the jurisdiction of the courts of the Republic as to any cause of action arising from:

- (a) the transaction of any business within the Republic;
- (b) the operation of a motor vehicle within the Republic;
- (c) the operation of a vessel or craft within the territorial waters or airspace of the Republic;
- (d) the commission of a tortious act within the Republic;
- (e) contracting to insure any person, property or risk located within the Republic at the time of contracting;
- (f) the ownership, use or possession of any property within the Republic;
- (g) entering into an express or implied contract, by mail or otherwise, with a resident of the Republic to be performed in whole or in part by either party in the Republic;
- (h) acting within the Republic as director, manager trustee, or other officer of any corporation organized under the laws of or having a place of business within the Republic, or as executor or administrator of any estate within the Republic;
- (i) causing injury to persons or property within the Republic arising out of an act or omission outside of the Republic by the defendant, provided in addition, that at the time of the injury either:

(1) the defendant was engaged in the solicitation or sales activities within the Republic; or

(2) products, materials or things processed, serviced or manufactured by the defendant anywhere were used or consumed within the Republic; and

(j) living in a marital relationship within the Republic notwithstanding subsequent departure from the Republic, as to all obligations arising for alimony, child support, or property rights under the laws of the Republic, if the other party to the marital relationship continues to reside in the Republic.

**Source**

RPPL 1-26 § 2, modified.

**§ 143. Service outside Palau.**

Service of process may be made upon any person subject to the jurisdiction of the courts of the Republic under this subchapter by personally serving the summons upon the defendant outside the Republic, or by certified mail to the last known address of such person to be served, or by certified mail upon the Registrar of Corporations, Secretary of State, Department of Justice or other like governmental body of the nation or state in which such person to be served resides. Such service has the same force and effect as though service had been personally made within the Republic.

**Source**

RPPL 1-26 § 3, modified.

**§ 144. Manner of service.**

Service of summons shall be under this subchapter in like manner as service within the Republic by any officer or person authorized to make service of summons in the state or jurisdiction where the defendant is served. An affidavit of the server shall be filed with the court issuing said summons stating the time, manner and place of service. The court may consider the affidavit or any other competent proofs in determining whether service has been properly made.

**Source**

RPPL 1-26 § 4, modified.

**§ 145. Default judgment.**

No default shall be entered against any person served with process pursuant to section 143 of this

subchapter until the expiration of at least thirty (30) days after service. A default judgment rendered on service made under this subchapter may be set aside only on a showing which would be timely and sufficient to set aside a default judgment entered upon personal service within the Republic.

**Source**

RPPL 1-26 § 5, modified.

**§ 146. Effect of jurisdiction limited.**

Only causes of action arising from acts or omissions enumerated in this subchapter may be asserted against a defendant in an action in which jurisdiction over him is based upon the provisions of this subchapter.

**Source**

RPPL 1-26 § 6, modified.

**§ 147. Effect of subchapter on other method of service.**

Nothing contained in this subchapter limits or affects the right to serve process in any manner now or hereafter provided by law.

**Source**

RPPL 1-26 § 7, modified.

**Chapter 2**

**Absent Defendants**

§ 201. Order to appear or plead.

§ 202. Personal service of order.

§ 203. Procedure if absent defendant fails to appear or plead.

§ 204. Judgment may be set aside.

**§ 201. Order to appear or plead.**

In any action in a court for annulment, divorce or adoption or to enforce or remove any lien upon or claim to real or personal property within the Republic, or to adjudicate title to any interest in such property, where any defendant cannot be served within the Republic, or does not voluntarily appear, the court may order the absent defendant to appear or plead by a certain day.

**Source**

(Code 1966, § 338.) 6 TTC § 51, modified.

**§ 202. Personal service of order.**

Such orders may be served on the absent defendant personally, wherever found, or, in the case of property, upon the person or persons in possession or charge thereof, if any, or by mailing, postage prepaid, a copy of the order to the absent defendant at his last known address. Where personal service is not practicable, the order shall be posted in one or more conspicuous places as the court may direct, for a period of not less than two weeks.

**Source**

(Code 1966, § 338.) 6 TTC § 52.

**§ 203. Procedure if absent defendant fails to appear or plead.**

If an absent defendant does not appear or plead within the time allowed, the court may proceed as if the absent defendant had been served with process within the Republic, but any adjudication shall, as regards the absent defendant without appearance, affect only the property or status which is the subject of the action.

**Source**

(Code 1966, § 338.) 6 TTC § 53, modified.

**§ 204. Judgment may be set aside.**

Any defendant not so personally notified may at any time within one year after final judgment enter his appearance and thereupon the court shall set aside the judgment and permit such defendant to plead, on payment of such costs as the court deems best; provided, however, that this right shall not extend to decrees of annulment, divorce or adoption.

**Source**

(Code 1966, § 338.) 6 TTC § 54.

**Chapter 3****Venue**

§ 301. General provisions.

§ 302. Admiralty and maritime.

§ 303. Actions brought in high court.

§ 304. Change of venue.

**§ 301. General provisions.**

- (a) Except as otherwise provided, a civil action in which one of the defendants lives in the Republic shall be brought in a court within whose jurisdiction the defendant or the largest number of defendants live or have their usual places of business or employment.
- (b) If an action is based on a wrong not connected with a contract, it may be brought in a court within whose jurisdiction the cause of action arose.
- (c) An action to collect a tax may be brought in a court within whose jurisdiction the defendant may be served.
- (d) A civil action against a defendant who does not live in the Republic may be brought in a court within whose jurisdiction the defendant can be served or his property can be attached.
- (e) A civil action by or against the executor, administrator, or other representative of a deceased person for a cause of action in favor of or against the deceased may be brought in any court in which it might have been brought by or against the deceased.

**Source**

(Code 1966, § 339(a).) 6 TTC § 101, modified.

**§ 302. Admiralty and maritime.**

Suit in an admiralty and maritime matter shall be brought in the district within which the defendant can be served, or within which his property can be attached, or, when the suit is against property itself, in the district within which the ship, goods or other thing involved can be seized.

**Source**

(Code 1966, § 339(b).) 6 TTC § 102.

**§ 303. Actions brought in high court.**

- (a) An action in the high court to enforce or remove any lien upon or claim to real or personal property within the Trust Territory, or to adjudicate title to any interest in such property, or any action affecting title to land within the Trust Territory or any interest therein, shall be brought in the district where the property or some part of it is located.
- (b) Any other action in the high court in which one of the parties is a resident of the Trust Territory shall be brought in the district in which one of the parties thereto lives or has his usual place of business or employment or, if the action is based upon a wrong not connected with a contract, it may be brought in the district in which the cause of action arose.



(c) In all other cases, actions in the high court may be brought in the district within which any defendant can be served or his property attached.

**Source**

(Code 1966, § 339(c).) 6 TTC § 103.

**§ 304. Change of venue.**

(a) Nothing in this chapter shall impair the jurisdiction of a court over any matter involving a party who does not make timely and sufficient objection to the venue.

(b) If a matter is brought in the wrong venue, the court in which it is brought may, on its own motion or otherwise, transfer it to any court in which the matter might properly have been brought.

(c) The high court, if it deems the interests of justice will be served thereby, may hear any matter in a district other than that in which it is brought, or may hear it partly in one district and partly in another district or districts, or may transfer it from one district to another.

**Source**

6 TTC § 104.

**Chapter 4****Limitation of Actions**

§ 401. Presumption of satisfaction of judgment.

§ 402. Limitation of twenty years.

§ 403. Limitation of two years.

§ 404. Actions by or against the estate of a deceased person.

§ 405. Limitation of six years.

§ 406. Disabilities.

§ 407. Mutual account.

§ 408. Extension of time by absence from the Republic.

§ 409. Extension of time by fraudulent concealment.

§ 410. Effect upon causes existing on May 28, 1951.

§ 411. Limitation of time for commencing.

§ 412. Reckoning of period.

§ 413. Contrary agreements.

§ 414. Existing rights of action.

**§ 401. Presumption of satisfaction of judgment.**

A judgment of any court shall be presumed to be paid and satisfied at the expiration of twenty (20) years after it is rendered.

**Source**

(Code 1966, § 315.) 6 TTC § 301, modified.

**§ 402. Limitation of twenty years.**

(a) The following actions shall be commenced only within twenty (20) years after the cause of action accrues:

- (1) actions upon a judgment;
- (2) actions for the recovery of land or any interest therein.

(b) If the cause of action first accrued to an ancestor or predecessor of the person who presents the action, or to any other person under whom he claims, the twenty (20) years shall be computed from the time when the cause of action first accrued.

**Source**

(Code 1966, § 316.) 6 TTC § 302, modified.

**§ 403. Limitation of two years.**

The following actions shall be commenced only within two years after the cause of action accrues:

- (a) actions for assault and battery, false imprisonment, or slander;
- (b) actions against the Director of the Bureau of Public Safety, policeman or other person duly authorized to serve process, for any act or omission in connection with the performance of his official duties.
- (c) actions for malpractice, error, or mistake against physicians, surgeons, dentists, medical or dental practitioners, and medical or dental assistants.
- (d) actions for injury to or for the death of one caused by the wrongful act or neglect of another, or a depositor against a bank for the payment of a forged or raised check, or a check which bears a forged or unauthorized endorsement.

**Source**

(Code 1966, § 317.) 6 TTC § 303, modified.

**§ 404. Actions by or against the estate of a deceased person.**

Any action by or against the executor, administrator or other representative of a deceased person for a cause of action in favor of, or against, the deceased shall be brought only within two (2) years after the executor, administrator or other representative is appointed or first takes possession of the assets of the deceased.

**Source**

6 TTC § 304.

**§ 405. Limitation of six years.**

All actions other than those covered in the preceding sections of this chapter shall be commenced within six (6) years after the cause of action accrues.

**Source**

(Code 1966, § 319.) 6 TTC § 305.

**§ 406. Disabilities.**

If the person entitled to a cause of action is a minor or is insane or is imprisoned when the cause of action first accrues, the action may be commenced within the times limited in this chapter after the disability is removed.

**Source**

(Code 1966, § 320.) 6 TTC § 306.

**§ 407. Mutual account.**

In an action brought to recover the balance due upon a mutual and open account, or upon a cause of action upon which partial payments have been made, the cause of action shall be considered to have accrued at the time of the last item proved in the account.

**Source**

6 TTC § 307.

**§ 408. Extension of time by absence from the Republic.**

If at the time a cause of action shall accrue against any person he shall be out of the Republic, such action may be commenced within the times limited in this chapter after he comes into the Republic. If, after a cause of action shall have accrued against a person he shall depart from and

reside out of the Republic, the time of his absence shall be excluded in determining the time limited for commencement of the action.

**Source**

(Code 1966, § 322; P.L. No. 4C-55, § 1.) 6 TTC § 308, modified.

**§ 409. Extension of time by fraudulent concealment.**

If any person who is liable to any action shall fraudulently conceal the cause of action from the knowledge of the person entitled to bring it, the action may be commenced at any time within the times limited within this chapter after the person who is entitled to bring the same shall discover or shall have had reasonable opportunity to discover that he has such cause of action, and not afterwards.

**Source**

(Code 1966, § 323; P.L. No. 4C-55, § 2.) 6 TTC § 309.

**§ 410. Effect upon causes existing on May 28, 1951.**

For the purposes of computing the limitations of time provided in this chapter, any cause of action existing on May 28, 1951 shall be considered to have accrued on that date.

**Source**

(Code 1966, § 324.) 6 TTC § 310.

**§ 411. Limitation of time for commencing.**

A civil action or proceedings to enforce a cause of action mentioned in this chapter may be commenced within the period of limitation herein prescribed, and not thereafter, except as otherwise provided in this chapter.

**Source**

(P.L. No. 4C-55, § 3.) 6 TTC § 311.

**§ 412. Reckoning of period.**

Except as otherwise provided, periods herein prescribed shall be reckoned from the date when the cause of action accrued.

**Source**

(P.L. No. 4C-55, § 3.) 6 TTC § 312.

**§ 413. Contrary agreements.**

No agreement made subsequent to the effective date of this section for a period of limitation different from the period described in this chapter shall be valid.

**Source**

(P.L. No. 4C-55, § 3.) 6 TTC § 313.

**§ 414. Existing rights of action.**

Revision of this chapter shall not be construed to extinguish any rights or remedies which have accrued to any party prior to such revision, unless specifically provided otherwise.

**Source**

(P.L. No. 4C-55, § 3.) 6 TTC § 314.

**Chapter 5****Actions Against the Republic or Trust Territory**

§ 501. Claims permitted in trial division; set-offs, counterclaims, etc.; injury; funds for payments of judgments.

§ 502. Exceptions.

§ 503. Actions in tort.

**§ 501. Claims permitted in trial division; set-offs, counterclaims, etc.; injury; funds for payments of judgments.**

(a) Actions upon the following claims may be brought against the government of the Trust Territory or Republic in the Trial Division of the high court or Supreme Court which shall have exclusive original jurisdiction thereof:

(1) civil actions against the government of the Trust Territory or Republic for the recovery of any tax alleged to have been erroneously or illegally collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the tax laws.

(2) any other civil action or claim accruing on or after September 23, 1967, against the government of the Trust Territory or Republic founded upon any law of this jurisdiction or any regulation issued under such law, or upon any express or implied contract with the government of the Trust Territory or Re-public, or for liquidated or unliquidated damages in cases not sounding in tort.

(3) civil actions against the government of the Trust Territory or Republic on claims for money damages, accruing on or after September 23, 1967, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the government while acting within the scope of his office or employment, under circumstances where the government of the Trust Territory or Republic, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(b) In any claim or proceeding brought pursuant to this section, the Trial Division of the high court's or Supreme Court's jurisdiction shall extend to any set-off, counter-claim or other claim or demand whatever on the part of the government of the Trust Territory or Republic against any plaintiff commencing an action under this section.

(c) Judgments rendered pursuant to this section shall be paid from such funds as may be appropriated by the Congress of Micronesia, the Olbiil Era Kelulau or the Congress of the United States for that purpose.

**Source**

(Code 1966, Ch. 5.) 6 TTC § 251, § 251(3) omitted as inapplicable and section modified.

**§ 502. Exceptions.**

The Trial Division of the high court or Supreme Court shall not have jurisdiction under the foregoing section 501 of:

(a) any civil action or claim for a pension.

(b) any claim based on an act or omission of an employee of the government, exercising due care, in the execution of a law or regulation, whether or not such law or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of any agency or employee of the government, whether or not the discretion involved be abused.

(c) any claim arising in respect of the detention of any goods or merchandise by any officer of customs or excise or any other law enforcement officer.

(d) any claim for damages caused by the imposition or establishment of a quarantine by the government of the Trust Territory or Republic or any agency thereof.

(e) any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit or interference with contract rights.

(f) any claim arising outside of the Trust Territory or Republic.

**Source**

(Code 1966, Ch. 5.) 6 TTC § 252, modified.

**§ 503. Actions in tort.**

Actions may be brought against the government of the Trust Territory or Republic, which shall be liable to the same extent as a private person under like circumstances, for tort claims; provided, that the government of the Trust Territory or Republic shall not be liable for interest prior to judgment or for punitive damages.

**Source**

(Code 1966, Ch. 5.) 6 TTC § 253, modified.

**Chapter 6****New Trial; Appeal and Review**

§ 601. Effect of irregularities.

§ 602. When appeals may be taken.

§ 603. Right of Republic government to appeal.

§ 604. Powers of courts on appeal or review.

§ 605. Stay of execution.

§ 606. Decisions of appellate division of high court final until action by U.S. Congress.

**§ 601. Effect of irregularities.**

No error in either the admission or exclusion of evidence, and no error or defect in any ruling or order, or in anything done or omitted by the court, or by any of the parties shall constitute a ground for granting a new trial, or for vacating, modifying, or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice.

**Source**

(Code 1966, § 337.) 6 TTC § 351.

**§ 602. When appeals may be taken.**

Any appeal authorized by law may be taken by filing a notice of appeal with the presiding judge or justice of the court from which the appeal is taken, or with the Clerk of Courts within thirty (30) days after the imposition of sentence or entry of the judgment, order or decree appealed from, or within such longer time and under such procedures as may be prescribed by rules of

procedure adopted by the Chief Justice of the Trust Territory under section 202 of Title 5 of the Trust Territory Code, or by the Chief Justice of the Supreme Court of the Republic of Palau pursuant to Article X, section 14 of the Constitution.

**Source**

(Code 1966, § 198.) 6 TTC § 352, modified.

**§ 603. Right of Republic government to appeal.**

(a) In a criminal case, the government shall have the right of appeal only when a written enactment intended to have the force and effect of law has been held invalid. Action on any such appeal shall be limited as provided in section 604 of this chapter.

(b) In civil cases, the government shall have the same right of appeal as private parties.

**Source**

(Code 1966, § 198.) 6 TTC § 353, modified.

**§ 604. Powers of courts on appeal or review.**

(a) The high court or Supreme Court on appeal or review and the district court on appeal shall have power to affirm, modify, set aside, or reverse the judgment or order appealed from or reviewed and to remand the case with such directions for a new trial or for the entry of judgment as may be just.

(b) The findings of fact of the Trial Division of the high court or the Supreme Court in cases tried by it shall not be set aside by the Appellate Division of that court unless clearly erroneous, but in all other cases the appellate or reviewing court may review the facts as well as the law.

(c) In a criminal case, the appellate or reviewing court may set aside the judgment of conviction, or may commute, reduce (but not increase), or suspend the execution of the sentence, and, if the defendant has appealed or requested a new trial, the appellate or reviewing court may order a new trial; but if the government has appealed in a criminal case as authorized in section 603 of this chapter, the appellate or reviewing court may not reverse any finding of not guilty, and its powers shall be limited to a reversal of any determination of invalidity of an enactment intended to have the force of law.

**Source**

(Code 1966, § 200.) 6 TTC § 355.

**§ 605. Stay of execution.**



Pending review or the hearing and determination of an appeal, execution of the judgment, order or sentence of a court will not be stayed unless:

- (a) the appellate court, reviewing court or the trial court orders a stay for cause shown and upon such terms as it may fix; or
- (b) as otherwise provided by law.

**Source**

(Code 1966, § 201; P.L. No. 4C-17, § 1.) 6 TTC § 356, modified.

**§ 606. Decisions of appellate division of high court final until action by U.S. Congress.**

Unless and until the Congress of the United States provides for an appeal to a court created by act of Congress, the decisions of the appellate division of the high court shall be final.

**Source**

(Code 1966, § 202.) 6 TTC § 357.

**Chapter 7****Fees and Costs; Disposition of Fines****Subchapter I****Fees and Costs**

§ 701. Proceedings when persons unable to pay fees.

§ 702. Additional costs may be taxed.

§ 703. Allocation of costs.

§ 704. Apportionment of costs.

**§ 701. Proceedings when persons unable to pay fees.**

(a) Any court may authorize the commencement, prosecution or defense of any case, action or proceeding, civil or criminal, or any appeal therein, without prepayment of fees for serving of process, jury fees, witness fees or filing fees, or giving security therefore by a permanent resident of the Republic who makes a statement under oath that he is unable to pay such fees or give security therefor. This statement under oath shall state the nature of the case, action, or proceedings, defense, or appeal, and that the person making the statement believes that he is entitled to relief.

(b) The officers of the court and the designated policeman shall issue and serve all process, and perform all duties in such cases without prepayment of fees or the giving of security therefor.

Witnesses shall attend as in other cases.

(c) The court may dismiss the case, action or proceeding if the statement that the person is unable to pay fees is untrue, or if the court is satisfied that the case, action or proceeding is malicious or has no substantial basis.

(d) The court before whom any criminal case is pending or a judge or justice thereof may order at any time that a witness summons be issued and served without prepayment of fees upon request of an accused who cannot pay witness fees. The request shall be supported by a statement under oath in which the accused shall state the name and address of each witness and the testimony which he is expected by the accused to give if summoned, and shall show that the evidence of the witness is material to the defense, that the accused cannot safely go to the trial without the witness, and that the accused is actually unable to pay the fees of the witness. If the court or judge or justice orders the witness summons to be issued and served without prepayment of fees the fees of the witness so summoned shall be paid in the same manner in which similar fees are paid in case of a witness summoned on behalf of the government.

(e) In the event that a court authorizes a party to proceed without payment of fees pursuant to this section, the administrative officer of the judiciary, shall pay all fees which would otherwise be due to the court reporter or other person who prepares a transcript. Such payment shall be made from funds appropriated for the operation of the judiciary.

**Source**

(Code 1966, §262; P.L. No. 6-101, § 2) 6 TTC § 404, modified.

**§ 702. Additional costs may be taxed.**

The court may allow and tax any additional items of cost or actual disbursement which it deems just and finds have been necessarily incurred for services which were actually and necessarily performed. When, in its discretion, the court finds that a complaint in a civil case is groundless, frivolous, or brought in bad faith, it shall award reasonable attorney's fees in favor of the prevailing defendant. The court shall have the final authority to determine and assess the amount of reasonable attorney's fees that may be awarded.

**Source**

(Code 1966, §265.) 6 TTC § 407, as amended by RPPL 3-7 § 1, modified.

**§ 703. Allocation of costs.**

All fees and expenses paid or incurred under this chapter for the service of process, witness fees, or filing fees on appeal, by any party prevailing in any matter other than a criminal proceeding, shall be taxed as part of the costs against the losing party or parties unless the court shall

otherwise order; provided, that no fees paid to a witness who is a party in interest and is called and examined on his own behalf or on behalf of others jointly interested with him shall be allowed or taxed as costs; and provided further, that no costs shall be taxed against the United States of America, the Trust Territory or the Republic.

**Source**

6 TTC § 408, modified.

**§ 704. Apportionment of costs.**

Where there is more than one prevailing or losing party, costs may be apportioned by the court as it deems just.

**Source**

(Code 1966, § 265.) 6 TTC § 409.

**Subchapter II****Disposition of Fines****§ 721. Civil fines.**

Any fine imposed in accordance with law by anyone other than a court shall be paid into the National Treasury, unless the law under which it is imposed otherwise directs. Such fines shall be considered civil fines and no person shall be imprisoned solely for failure to pay them, but any such fine may be collected in the manner provided for collection of taxes in Division 2, Title 40 of this Code, or as may be provided in the law under which the fine is imposed, provided it is not inconsistent with this section.

**Source**

6 TTC § 452, § 452(2) omitted as inapplicable and section modified.

**DIVISION 2****SPECIAL PROCEEDINGS****Chapter 10****Declaratory Judgments**

§ 1001. Authority of courts to render.

**§ 1001. Authority of courts to render.**

In a case of actual controversy within its jurisdiction, any appropriate court of the Republic,

upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such. Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

**Source**

(Code 1966, § 118.) 9 TTC § 1, modified.

**Chapter 11****Conciliation Proceedings****§ 1101. Conciliation jurisdiction.**

(a) Any court may, at the request of a party to any civil controversy (other than annulment, divorce and adoption), endeavor to effect an amicable settlement of the controversy, and to that end, may invite the other party or parties to the controversy to appear before the judge or justice for an informal hearing.

(b) Such a request shall be made in the court within whose territorial jurisdiction the other party or the largest number of the other parties live or have their usual places of business or employment.

(c) If an agreement in settlement of the controversy is reached, the judge or justice shall reduce it to writing and his report of the settlement agreement, when signed by the parties, shall have the force and effect of a judgment even though the subject matter of the controversy may be beyond the jurisdiction of the court for purposes other than conciliation.

**Source**

(Code 1966, § 164.) 9 TTC § 51, modified.

**DIVISION 3****ENFORCEMENT OF JUDGMENTS****Chapter 20****General Provisions**

§ 2001. Money judgments.

§ 2002. Judgments affecting land.

§ 2003. Other judgments.

§ 2004. Other methods of enforcement.

**§ 2001. Money judgments.**

Every judgment for the payment of money shall bear interest at the rate of nine percent a year from the date it is entered. The process to enforce a judgment for the payment of money may be a writ of execution or an order in aid of judgment, as provided in chapter 21 of this title.

**Source**

(Code 1966, § 282; P.L. No. 6-97, § 1.) 8 TTC § 1, modified.

**§ 2002. Judgments affecting land.**

A judgment adjudicating an interest in land shall, after the time for appeal therefrom has expired without notice of appeal being filed or after any appeal duly taken has been finally determined or after an order has been entered that an appeal shall not stay the judgment, operate the release or transfer any interest in land in accordance with the terms of the judgment, when a copy thereof, certified by the Clerk of Courts, or any judge or justice of the court, is recorded in the Office of the Clerk of Courts, in the case of unregistered land, or in the registrar's office, in the case of registered land.

**Source**

(Code 1966, § 283; P.L. No. 4C-34, § 1.) 8 TTC § 2, modified.

**§ 2003. Other judgments.**

Judgment for any form of relief other than the payment of money or the adjudication of an interest in land, after the time for appeal therefrom has expired without notice of appeal being filed or after any appeal duly taken has been finally determined or after an order has been entered that an appeal shall not stay the judgment, may be enforced by contempt proceedings; provided, that enforcement at such time is required to prevent irreparable injury or multiple damage to the interests of the winning party and is otherwise in the interests of justice. Upon a finding of contempt, the person against whom the judgment has been rendered may be fined or imprisoned at the discretion of the court until he or she complies with the judgment or is released by the court or has been imprisoned for six months, whichever happens first.

**Source**

(Code 1966, § 284; P.L. No. 4C-34, § 1.) 8 TTC § 3.

**§ 2004. Other methods of enforcement.**

Enforcement of judgment may also be affected, if a court deems justice requires and so orders by the appointment of a receiver, or receivers, by taking possession of property and disposing of it

in accordance with the orders of the court, or by a civil action on the judgment, or in any other manner known to American common law or common in courts in the United States.

**Source**

(Code 1966, § 285.) 8 TTC § 4, modified.

**Chapter 21****Writs; Orders in Aid of Judgment**

§ 2101. Writs of attachment.

§ 2102. Release and modification.

§ 2103. Writs of execution.

§ 2104. Levying execution.

§ 2105. Orders in aid of judgment; application.

§ 2106. Same; hearing.

§ 2107. Same; modification of orders.

§ 2108. Same; punishment of violations.

§ 2109. Same; stay of execution.

§ 2110. Exemptions.

§ 2111. Limitation on lawyer fees in collection cases.

**§ 2101. Writs of attachment.**

(a) Writs of attachment may be issued only by the Trial Division of the high court or Supreme Court for special cause shown, supported by statement of the high court or Supreme Court for special cause shown, supported by statement under oath. Such writs when so issued shall authorize and require the Director of the Bureau of Public Safety, any policeman, or other person named therein, to attach and safely keep so much of the personal property of the person against whom the writ is issued as will be sufficient to satisfy the demand set forth in the action, including interest and costs. The Director of the Bureau of Public Safety, policeman, or other person named in the writ shall not attach any personal property which is exempt from attachment, nor any kinds or types of personal property which the court may specify in the writ.

(b) Debts payable to the defendant may be similarly attached by special order issued by the Trial Division of the high court or Supreme Court, which shall exempt from the attachment so much of any salary or wages as the court deems necessary for the support of the person against whom the order is issued or his dependents.

**Source**

(Code 1966, § 280.) 8 TTC § 51, modified.

**§ 2102. Release and modification.**

The Trial Division of the high court or Supreme Court, upon application of either party or on its own motion, may make and, from time to time, modify such orders as it deems just for the release of property from attachment or for the sale thereof if perishable or if the owner of the property shall so request, and for the safekeeping of the proceeds of the sale.

**Source**

(Code 1966, § 281.) 8 TTC § 52, modified.

**§ 2103. Writs of execution.**

Every court, at the request of the party recovering any civil judgment in that court for the payment of money, shall issue a writ of execution against the personal property of the party against whom the judgment has been rendered, except as provided in section 2110 of this chapter.

**Source**

(Code 1966, § 286; P.L. No. 4C-21, § 1.) 8 TTC § 53.

**§ 2104. Levying execution.**

The Director of the Bureau of Public Safety, policeman or other person duly authorized receiving a writ of execution issued by any court, shall levy or cause the Director of the Bureau of Public Safety or policeman to levy execution as follows:

(a) Demand of payment - seizure of property--he shall demand of the person against whom the execution is issued, if he may be found within the state where the levy is being attempted, that the person pay the execution or exhibit sufficient property subject to execution. If such person has property of a kind exempt from execution but to an amount exceeding the exemption, he may select the portion of this property provided by law which he desires to retain under the exemption, providing he makes this selection known promptly to the person making the levy. Otherwise, the person making the levy shall make the selection. If the person against whom the execution is issued does not pay the execution in full, including interest and costs and expenses thereof, the person making the levy shall take into his possession property of the person against whom the execution is issued, not exempt from execution, sufficient in his opinion to cover the amount of the execution. He shall take first any property under attachment in the action in which the execution was issued; next, property, if any, indicated by the person against whom the execution was issued. He may, if he thinks best, remove the property to a safe place, or place a caretaker in charge of it. He shall make a list of the property levied upon.

(b) Notice of sale--the person making the levy shall, after levy, give public notice of the

sale at least seven days in advance of the time and place of sale, by notifying the chief executive officer of the state in which the levy was made, by posting a written notice of the sale in a conspicuous place at or near the state office in the state in which the sale is to be held, and must notify the person against whom the execution is issued, if he can be found within the state or states where the levy was made, or notify any agent who had custody of the property levied upon at the time of levy.

(c) Sale - procedure - disposition of proceeds--the person making the levy on the day and at the place set for the sale, unless payment has been made of the amount of the judgment and interest and the costs and expenses in connection with the levy, shall sell the property levied upon at public auction to the highest bidder. He shall deduct from the proceeds of the sale sufficient money for the full payment of his fees and expenses, and shall then pay the person in whose favor the execution was issued, or his counsel, such balance as remains up to the amount due on the execution. If there are any proceeds of the sale left after the deduction and payment directed above, such remaining proceeds shall be paid over to the person against whom the execution was issued. The person making the levy shall then return the writ to the court with a report of his doings thereon, showing the amounts collected and paid out thereon.

(d) Postponement of sale--whenever a request in writing signed by the debtor and creditor for a postponement of the sale to an agreed date and hour is given to the person conducting the sale under execution, such person shall thereupon by public declaration postpone the sale to the day and hour so fixed in such request and at the place originally fixed by the person for the sale. In the case of postponements, notice of each thereof must be given by public declaration by the person conducting the sale at the time and place last appointed for the sale. No other notice of postponed sale need be given.

(e) Completion of sale by person other than one making levy--if the Director of the Bureau of Public Safety, policeman or other person duly authorized starts to levy execution and for any reason is prevented from or fails to complete the matter, the Director of the Bureau of Public Safety, policeman or other person duly authorized may complete the levy, sale, and payment of proceeds as provided in this section.

**Source**

(Code 1966, § 287; P.L. No. 4C-21, § 2.) 8 TTC § 54, modified.

**§ 2105. Orders in aid of judgment; application.**

At any time after a finding for the payment of money by one party to another, and before any judgment based thereon has been satisfied in full, either party may apply to the court for an order in aid of judgment. Thereupon the court, after notice to the opposite party, shall hold a hearing on the question of the debtor's ability to pay and determine the fastest manner in which the



debtor can reasonably pay a judgment based on the finding. In making this determination the court shall allow the debtor to retain such property and such portion of his income as may be necessary to provide the reasonable living requirements of the debtor and his dependents, including fulfillment of any obligations he may have to any clan, lineage, or other similar group, in return for which obligations he, or his dependents, receive any necessary part of the food, goods, shelter or services required for their living.

**Source**

(Code 1966, § 289.) 8 TTC § 55.

**§ 2106. Same; hearing.**

(a) At the hearing provided by section 2105 of this chapter, the debtor may be examined orally before the court, or the court may refer the examination to a single judge or justice of the court or to a master to take evidence and report his findings. In either case any evidence properly bearing on the question may be introduced by either party or by the court, the single judge, justice or master, in the same manner as at the trial of a civil action. Upon having heard the evidence or having received the report of the single judge, justice or master, the court shall make such order in aid of judgment as is just for the payment of any judgment based on the finding.

(b) This order in aid of judgment may provide for the transfer of particular assets at a price determined by the court, or for the sale of particular assets and payment of the net proceeds to the creditor, or for payments, in specified installments on particular dates or at specified intervals, or for any other method of payment which the court deems just.

**Source**

(Code 1966, § 290; P.L. No. 4C-21, § 3.) 8 TTC § 56, modified.

**§ 2107. Same; modification of orders.**

Any order in aid of judgment made under this chapter may be modified by the court as justice may require, at any time, upon application of either party and notice to the other, or on the court's own motion.

**Source**

8 TTC § 57.

**§ 2108. Same; punishment of violations.**

If any debtor fails without good cause to comply with any order in aid of judgment made under this chapter, he may be adjudged in contempt as a civil matter, after notice to show cause why he should not be so adjudged and an opportunity to be heard thereon, and upon such adjudication

shall be committed to jail until he complies with the order or is released by the court or serves a period fixed by the court of not more than six months in jail, whichever happens first.

**Source**

(Code 1966, § 292.) 8 TTC § 58.

**§ 2109. Same; stay of execution.**

(a) After an application for an order in aid of judgment has been filed in any action, no writ of execution shall be issued therein except under an order in aid of judgment as provided in this chapter, or by special order of the court for cause shown.

(b) If a writ of execution is outstanding, a judgment creditor applying for an order in aid of judgment shall file the writ of execution with his application, and a judgment debtor applying for an order in aid of judgment may request a stay of execution which may be granted by the court on such terms, if any, as it deems just.

**Source**

8 TTC § 59.

**§ 2110. Exemptions.**

The following described property shall be exempt from attachment and execution:

(a) Personal and household goods - all necessary household furniture, cooking and eating utensils, and all necessary wearing apparel, bedding, and the principal family dwelling house and one motor vehicle, fair market value of said property not to exceed one hundred fifty thousand dollars (\$150,000), unless otherwise specified by contract.

(b) Necessities for trade or occupation--all tools, implements, utensils, two work animals, and equipment necessary to enable the person against whom the attachment or execution is issued to carry on his usual occupation.

(c) Land and interests in land--all interests in land, but any interest owned solely by a judgment debtor, in his own right, may be ordered sold or transferred under an order in aid of judgment if the court making the order deems that justice so requires and finds as a fact that after the sale or transfer, the debtor will have sufficient land remaining to support himself and those persons directly dependent on him according to recognized local custom and the law of the Republic. No person not an indigenous inhabitant of the Republic may acquire any interest in such land by sale, transfer, or otherwise, except with the prior approval of the President.

(d) Social Security and Pension Plan payments and benefits.

**Source**

(Code 1966, § 288.) 8 TTC § 61, modified. RPPL 7-11 § 2 amends subsection (a) and adds subsection (d).

**§ 2111. Limitation on lawyer fees in collection cases.**

Legal fees and expenses in a collection case shall not be assessed against a defendant in excess of twenty-five percent (25%) of the amount of the outstanding balance of the debt at the time the lawsuit is filed, unless otherwise specified in the contract between the parties to the lawsuit.

**Source**

RPPL 7-11 § 3.

**Chapter 22**

**Contempt of Courts Act**

§ 2201. Short title.

§ 2202. Legislative findings and purposes.

§ 2203. Power of courts to punish for criminal contempt.

§ 2204. Power of courts to punish for civil contempt.

§ 2205. Procedures; penalties; limitations.

§ 2206. Appeal.

§ 2207. Conflict of laws.

**§ 2201. Short title.**

This chapter may be cited as the "Contempt of Courts Act."

**Source**

RPPL 1-23 § 1(a), modified.

**§ 2202. Legislative findings and purposes.**

The Olbiil Era Kelulau hereby finds and declares the policy of this nation to be, as follows:

(a) It is the constitutional responsibility of the national government to organize its judicial system before January 1, 1982, empower the courts to act expeditiously, and be able to have their judgments enforced.

(b) Contempt of courts is generally recognized as any conduct that offends the dignity of

and respect towards the court or of any judicial office in the performance of a judicial function.

(c) Power to punish contempt of courts is vital to a strong, honorable judiciary.

**Source**

RPPL 1-23 § 1(b), modified.

**§ 2203. Power of courts to punish for criminal contempt.**

Courts of the Republic of Palau have the power to punish for a criminal contempt, a person guilty of any of the following acts, and no others:

(a) disorderly, contemptuous or insolent behavior, committed during its sitting, in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due to its authority.

(b) breach of peace, noise, or other disturbance, directly tending to interrupt its proceedings.

(c) wilful disobedience to its lawful mandate.

(d) resistance wilfully offered to its lawful mandate.

(e) unlawful refusal to be sworn as a witness, or after being sworn, answer any legal and proper interrogatory.

(f) publication of a false, or grossly inaccurate report of its proceedings.

(g) wilful failure to obey any mandate, process or notice issued pursuant to law, or to court rules, writ, process, order, decree or command.

**Source**

RPPL 1-23 § 2, modified.

**§ 2204. Power of courts to punish for civil contempt.**

Courts of the Republic have the power to punish, by fine and imprisonment, or either, a neglect or violation of duty, or other misconduct, by which a right or remedy of a party to a civil action or special proceeding, pending in the court may be defeated, impaired, impeded or prejudiced, in any of the following cases:

(a) an attorney, counselor, trial assistant, clerk, policeman, or other person, in any manner duly selected or appointed to perform a judicial service, for misbehavior in his office or trust or for a wilful neglect or violation of a duty therein; or for disobedience to a lawful mandate of the court, or of a justice or judge thereof.

(b) a party to the action or special proceedings for putting in fictitious bail or a fictitious surety, or for any deceit or abuse of a mandate or proceeding of the court.

(c) a party to the action or special proceedings of an attorney, counselor, trial assistant, clerk, policeman, or other person, for the nonpayment of a sum of money, ordered or adjudged by the court to be paid, in a case where by law execution cannot be awarded for the collection of such sum except as otherwise specifically provided by the civil practice law and rules; or for any other disobedience to a lawful mandate of the court.

(d) a person, for assuming to be an officer of the court, and acting as such without authority, for rescuing any property or person in the custody of an officer, by virtue of a mandate of the court; for unlawfully detaining, or fraudulently and wilfully preventing or disabling from attending or testifying, a witness, or party to the action or special proceeding, while going to, remaining at, or returning from, the sitting where it is noticed for trial or hearing; and for any other unlawful interference with the proceedings therein.

(e) a person subpoenaed as a witness, for refusing or neglecting to obey the subpoena, or to attend, or to be sworn, or to answer as a witness.

(f) a person duly acting as a juror, or special juror, or assessor, for improperly conversing with a party to an action or special proceeding, or with any other person, in relation to the merits of that action or special proceeding; or for receiving a communication from any person, in relation to the merits of such an action or special proceeding; without immediately disclosing the same to the court.

**Source**

RPPL 1-23 § 3, modified.

**§ 2205. Procedures; penalties; limitations.**

(a) Any person accused of committing any contempt, criminal or civil, shall have a right to notice of the charges and an opportunity to present defenses and mitigation; provided, however, where the offense is committed in the immediate view and presence of the court, upon a trial or hearing, it may be punished summarily. For that purpose, an order must be made by the court, justice, or judge, stating the facts which constitute the offense and plainly prescribe the punishment to be inflicted therefor.

(b) A person found to be in contempt of courts, criminal or civil, shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than six (6) months, or both; provided, however, that a person found in civil contempt for having failed to perform an act or duty, which is yet in the power of that person to perform, shall be imprisoned until he has performed it.

(c) Any person shall have the right to be charged within three months of the contempt and the right not to be charged twice for the same contempt.

**Source**

RPPL 1-23 § 4, modified.

**§ 2206. Appeal.**

Any adjudication of contempt is subject to appeal to the Appellate Division of the Supreme Court. Any punishment of contempt may be stayed pending appeal, but a punishment of imprisonment shall be stayed on appeal automatically, unless the court finds that a stay of imprisonment will cause an immediate obstruction of justice. Such finding must be supported by written findings of fact. A denial of a stay of imprisonment is subject to review.

**Source**

RPPL 1-23 § 5.

**§ 2207. Conflict of laws.**

Any other law, regulation or rule in conflict with the provisions of this chapter shall be deemed superseded and void to the extent of the conflict.

**Source**

RPPL 1-23 § 6, § 6(a) repealing § 451 of Title 11 of the Trust Territory Code suspended by the High Commissioner; § 6(b) made into separate section and modified.

**DIVISION 4  
ACTIONS IN TORT**

**Chapter 30  
Survival of Actions**

§ 3001. Survival of claims after death of tort-feasor or other person liable.

**§ 3001. Survival of claims after death of tort-feasor or other person liable.**

(a) A cause of action based on tort shall not be lost or abated because of the death of the

tort-feasor or other person liable. An action thereon may be brought or continued against the personal representative of the deceased person, but punitive or exemplary damages may not be awarded nor penalties adjudged in the action.

(b) Where a cause of action arises simultaneously with or after the death of the tort-feasor or other person who would have been liable if his death had not occurred simultaneously with the act, omission, circumstance or event giving rise to the cause of action, or if his death had not intervened between the wrongful act, omission, circumstance or event and the coming into being of the cause of action, an action to enforce it may be maintained against the personal representative of the tort-feasor or other person.

**Source**

(Code 1966, § 25A.) 6 TTC § 151.

**Chapter 31****Survival and Death Act**

§ 3101. Short title.

§ 3102. Definitions.

§ 3103. Survival actions.

§ 3104. Death actions.

§ 3105. Joinder of actions.

§ 3106. Conflict of laws.

**§ 3101. Short title.**

This chapter may be cited as the "Survival and Death Act of 1982."

**Source**

RPPL 1-46 § 1, modified.

**§ 3102. Definitions.**

In this chapter:

(a) "Actionable conduct" means an act or omission that causes the death of a person for which the person could have brought and maintained a personal injury action if he or she had not died; the term includes an act or omission for which the law imposes strict liability or liability for breach of warranty.

(b) "Ascendants" means persons to whom one is related in the ascending line including one's parents, grandparents, great grandparents and the like.

(c) "Closely related survivors" means the surviving spouse and ascendants and descendants of the decedent.

(d) "Descendants" means persons to whom one is related in the descending line including children, grandchildren, great grandchildren and the like.

(e) "Person" means any natural person or individual, corporation, clan, entity, partnership or any body cognizable under law.

(f) "Survivors of a decedent" means:

(1) the surviving spouse, children, ascendants and descendants of the decedent, and

(2) individuals who were wholly or partially dependent upon the decedent and were members of the decedent's household or related to the decedent by blood or marriage.

**Source**

RPPL 1-46 § 2, § 2(b) omitted as unnecessary and terms alphabetized, section modified.

**§ 3103. Survival actions.**

(a) An action, claim for relief or cause of action:

(1) does not abate by reason of the death of a person to or against whom it accrued, unless by its terms it was limited to the person's lifetime;

(2) may be maintained by or against the personal representative of a decedent; and

(3) is subject to all defenses to which it was subject to during the decedent's lifetime.

(b) Damages recoverable on behalf of a decedent under this section for an injury causing his death are limited to those that accrued to him before his death, plus reasonable burial expenses paid or payable from his estate. Damages so recovered become a part of the decedents' estate and are distributable in the same manner as other assets of the estate. This section does not affect the measure of damages allowable under the law for any damages recoverable under any other claim for relief or cause of action.

**Source**

RPPL 1-46 § 3, modified.



**§ 3104. Death actions.**

- (a) With respect to any death caused by actionable conduct, the decedent's personal representative, acting in a fiduciary capacity on behalf of the survivors of the decedent, may bring and maintain a death action against any person or the estate of any person legally responsible for the damages, including any insurer. The death action is subject to all defenses that might have been asserted against the decedent had he survived.
- (b) If no personal representative is appointed within six months after decedent's death, the death action may be brought and maintained by a closely related survivor acting in a fiduciary capacity.
- (c) Any survivor having a potential conflict of interest with other survivors may be represented independently in the death action.
- (d) In the death action, damages awarded to survivors of a decedent are limited to the following elements:
- (1) medical expenses incident to the injury resulting in death and reasonable burial expenses, paid or payable by survivors, to the extent that the decedent's estate could have recovered under section 3103 of this chapter had the payments been made by the decedent or his estate; and
  - (2) the present monetary value of support, services, and financial contributions they would have received from the decedent had death not ensued; and
  - (3) for closely related survivors reasonable compensation for decedent's pain and suffering before death if not separately recoverable under section 3103 of this chapter, loss of consortium and companionship and reasonable compensation for mental anguish not exceeding the sum of \$10,000.00; and
  - (4) reasonable compensation for attorney fees, expert witness fees and related court costs of the personal representative or closely related survivor of the decedent.
- (e) Punitive or exemplary damages are recoverable only if they would have been recoverable by the decedent had death not ensued.
- (f) The judge or justice of the appropriate court of the Republic shall make separate awards to each of the survivors entitled to damages. Conduct of a survivor which contributed to the death is a defense to the survivor's recovery to the same extent as in other actions.

(g) The decedent's personal representative or a closely related survivor qualifying under subsection (b) may compromise or settle any claim arising under this chapter, before or after an action is brought, subject to confirmation by a judge or justice of the court in which the action is or could have been brought. The personal representative or closely related survivor shall apply to the court for confirmation by petition, stating the terms of the compromise or settlement, the reasons therefor, and the names of all the survivors having an interest in the distribution of the proceeds. The court, upon notice, shall hold a hearing which all the survivors and their legal representatives may attend, and shall confirm or disapprove the compromise or settlement. If the compromise or settlement is confirmed and any of the survivors or their representatives disagree with the distribution prescribed by it, the judge or justice shall order the distribution.

(h) Every such action under this chapter shall commence within three years after death.

**Source**

RPPL 1-46 § 4, modified.

**§ 3105. Joinder of actions.**

(a) Actions under sections 3103 and 3104 of this chapter are separate actions but shall be joined for trial if they are based upon the same actionable conduct.

(b) Separate verdicts and awards shall be rendered in each action under section 3103 and under section 3104 of this chapter.

**Source**

RPPL 1-46 § 5, modified.

**§ 3106. Conflict of laws.**

Any law, ordinance, rule or regulation in conflict with this chapter is hereby superseded to the extent of the conflict.

**Source**

RPPL 1-46 § 6(b), § 6(a) severability clause omitted as unnecessary; § 6(b) made into separate section and modified.

**Chapter 32**

**Contribution and Tort-Feasors Act**

§ 3201. Short title.

§ 3202. Right of contribution.

§ 3203. Pro rata shares.

§ 3204. Enforcement.

§ 3205. Release or covenant not to sue.

§ 3206. Retroactivity.

**§ 3201. Short title.**

This chapter may be cited as the "Contribution Among Joint Tort-Feasors Act."

**Source**

6 TTC § 551.

**§ 3202. Right of contribution.**

(a) Except as otherwise provided in this chapter, where two or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.

(b) The right of contribution exists only in favor of a tort-feasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. No tort-feasor is compelled to make contribution beyond his own pro rata share of the entire liability.

(c) There is no right of contribution in favor of any tort-feasor who has intentionally, wilfully, or wantonly caused or contributed to the injury or wrongful death.

(d) A tort-feasor who enters into a settlement with a claimant is not entitled to recover contribution from another tort-feasor whose liability for the injury or wrongful death is not extinguished by the settlement nor is he entitled to recover in respect to any amount paid in a settlement which is in excess of what was reasonable.

(e) A liability insurer, who by payment has discharged in full or in part the liability of a tort-feasor and has thereby discharged in full its obligation as insurer, is subrogated to the tort-feasor's right of contribution to the extent of the amount it has paid in excess of the tort-feasor's pro rata share of the common liability. This provision does not limit or impair any right of subrogation arising from any other relationship.

(f) This chapter does not impair any right of indemnity under existing law. Where one tort-feasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(g) This chapter shall not apply to breaches of trust or of other fiduciary obligation.

**Source**

(P.L. No. 4C-22, § 1.) 6 TTC § 552.

**§ 3203. Pro rata shares.**

In determining the pro rata shares of tort-feasors in the entire liability:

- (a) their relative degree of fault shall not be considered;
- (b) if equity requires, the collective liability of some as a group shall constitute a single share; and
- (c) principles of equity applicable to contribution generally shall apply.

**Source**

(P.L. No. 4C-22, § 1.) 6 TTC § 553.

**§ 3204. Enforcement.**

- (a) Whether or not judgment has been entered in an action against two or more tort-feasors for the same injury or wrongful death, contribution may be enforced by separate action.
- (b) Where a judgment has been entered in an action against two or more tort-feasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment defendants by motion upon notice to all parties to the action.
- (c) If there is a judgment for the injury or wrongful death against the tort-feasor seeking contribution, any separate action by him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review.
- (d) If there is no judgment for the injury or wrongful death against the tort-feasor seeking contribution, his right of contribution is barred unless he has either:
  - (1) discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against him and has commenced his action for contribution within one year after payment, or
  - (2) agreed while action is pending against him to discharge the common liability and has within one year after agreement paid the liability and commenced his action for contribution.

(e) The recovery of a judgment for an injury or wrongful death against one tort-feasor does not of itself discharge the other tort-feasors from liability for the injury or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.

(f) The judgment of the court in determining the liability of the several defendants to the claimant for an injury or wrongful death shall be binding as among such defendants in determining their right to contribution.

**Source**

(P.L. No. 4C-22, § 1.) 6 TTC § 554, modified.

**§ 3205. Release or covenant not to sue.**

When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death:

(a) it does not discharge any of the other tort-feasors from liability for the injury or wrongful death unless its terms so provide, but it reduces the claim against the other to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, whichever is greater; and,

(b) it discharges the tort-feasor to whom it is given from all liability for contribution to any other tort-feasor.

**Source**

(P.L. No. 4C-22, § 1.) 6 TTC § 555, modified.

**§ 3206. Retroactivity.**

This chapter shall not be deemed to create any right or remedy to any joint tort-feasor in favor of whom the provisions of this chapter would otherwise apply, where such joint tort-feasor's cause of action accrued prior to the effective date of this chapter, and to this extent the provisions of this chapter are not retroactive.

**Source**

(P.L. No. 4C-22, § 1.) 6 TTC § 556, modified.

**Chapter 33****Uniform Single Publication Act**

§ 3301. Single publication to give rise to one cause of action only.

§ 3302. Judgment as bar to other actions.

**§ 3301. Single publication to give rise to one cause of action only.**

No person shall have more than one cause of action for damages for libel or slander or invasion of privacy or any other tort founded upon any single publication or exhibition or utterance, such as any one edition of a newspaper or book or magazine or any one presentation to an audience or any one broadcast over radio or television or any one exhibition of a motion picture. Recovery in any action shall include all damages for any such tort suffered by the plaintiff in all jurisdictions. Nothing in this section shall be construed as creating a cause of action which does not otherwise exist.

**Source**

(P.L. No. 4C-20, § 1.) 6 TTC § 501, modified.

**§ 3302. Judgment as bar to other actions.**

A judgment in any jurisdiction or against the plaintiff upon the substantive merits of any action for damages founded upon a single publication or exhibition or utterance as described in section 3301 of this chapter shall bar any other action for damages by the same plaintiff against the same defendant founded upon the same publication or exhibition or utterance.

**Source**

(P.L. No. 4C-20, § 1.) 6 TTC § 502.

**Chapter 34**

**Government Cause of Action**

§ 3401. Definitions.

§ 3402. Direct action.

§ 3403. Evidence.

§ 3404. Limitations period.

§ 3405. Retroactivity.

§ 3406. Punitive damages, attorney fees and costs.

**§ 3401. Definitions.**

The following definitions are to be used in interpreting this chapter:

- (a) "Unreasonably harmful product" means any product that, in the opinion of knowledgeable scientific authorities, is capable of causing dependence or addiction or physical harm to a substantial proportion of its users, or any other product that, when

used as intended or as reasonably anticipated, causes unnecessary harm. A certification by the Minister of Health of the Republic of Palau or his or her designee that a product is an unreasonably harmful product shall be conclusive if supported by substantial evidence.

(b) "Manufacturer" means any person or entity engaged in the process of designing, fabricating, assembling, producing, constructing or otherwise preparing a product, including packaging or labeling of such product, with the intended purpose of selling the product for gain or profit. "Manufacturer" includes any person or entity or wholly-owned or majority-owned subsidiary engaged in the manufacture or distribution of an unreasonably harmful or defective product and/or components of an unreasonably harmful or defective product, and any distributor or marketer of such product which is under the de facto direction or control of the actual manufacturer, regardless of the ownership of the distributor or marketer. "Manufacturer" also includes the parent of any wholly-owned, majority owned, or de facto controlled subsidiary, where (1) the subsidiary is a "manufacturer" within the meaning of this chapter; (2) the subsidiary is or may become unable to pay damages that may be assessed in any action brought pursuant to this chapter; and (3) the parent exercises substantial influence over the subsidiary's design, public relations, or marketing decisions.

**Source**

RPPL 5-31 § 2, modified. Effectively repealed and replaced by RPPL 6-14 § 1[2], modified.

**§ 3402. Direct action.**

The Republic of Palau may bring a direct legal action against any manufacturer or any product to recover money which the Republic has spent, appropriated, or will be obligated to spend in the future, for the healthcare needs of the people of the Republic; provided that such needs, in whole or in part, are the result of, or otherwise arise from, the use or consumption of such manufacturer's product in a manner which was, or should have been, reasonably foreseen by the manufacturer. Any action brought under this chapter shall be independent of any private rights or cause of action of an injured individual and shall not be subject to any defense of contributory negligence, assumption of risk, or similar defense which the manufacturer might otherwise be entitled to assert against such an individual based on the conduct, acts, omissions, or pre-existing condition of the individual. Liability shall be joint and several.

**Source**

RPPL 5-31 § 3, modified. Effectively repealed and replaced by RPPL 6-14 § 1[3], modified.

**§ 3403. Evidence.**

If any action brought pursuant to this chapter wherein a manufacturer is, or manufacturers of

substantially similar products are, shown to have produced an unreasonably harmful or defective product with the knowledge, either actual or reasonably imputed, that such product was to be used, consumed, or sold in the Republic of Palau, causation of damages may be established through the use of statistical analysis.

**Source**

RPPL 5-31 § 4, modified. Effectively repealed and replaced by RPPL 6-14 § 1[4], modified.

**§ 3404. Limitations period.**

Any action brought pursuant to this chapter shall be commenced within four years of the latest of the following events:

- (a) the last day on which healthcare was provided to treat injury or illness arising in whole or in part from the use or consumption of an unreasonably harmful or defective product in a reasonably foreseeable manner;
- (b) the date on which payment became due for healthcare which was provided to treat injury or illness arising in whole or [in] part from the uses or consumption of an unreasonably harmful or defective product in a reasonably foreseeable manner; or
- (c) the date on which the Minister of Health of the Republic of Palau or his designee shall have certified that a product is an unreasonably harmful or defective product based on the then-current state of knowledge of the product and its effects.

**Source**

RPPL 5-31 § 5, modified. Repealed and replaced by RPPL 6-14 § 1[5], modified.

**§ 3405. Retroactivity.**

This chapter shall have retroactive effect. Causes of action may be brought by the Republic to recover for damages which were caused prior to the effective date of this chapter. As a concurrent and independent basis for recovery, if any person, corporation, or business entity engages in conduct that qualifies them as a manufacturer under this statute, after the effective date of this chapter, then such person, corporation, or business entities, and all persons, corporations, or business entity who have acted or are acting in concert with them to further their past or present conduct under this chapter, are liable to the Republic for all health care costs, needs, and damages, past, present, or future, caused by any conduct covered by this chapter, and for any relief and damages due the Republic of Palau under the laws of the Republic of Palau arising from conduct governed by this chapter, regardless of when such conduct occurred.

**Source**



RPPL 5-31 § 6, modified. Repealed and replaced by RPPL 6-14 § 1[6], modified.

**§ 3406. Punitive damages, attorney fees and costs.**

In any action brought under this section, the court may award punitive damages and may provide such equitable relief as it deems necessary or proper. The court may also award reasonable attorney fees and costs under this section.

**Source**

RPPL 6-14 § 7, modified.

**Chapter 35**

**Comparative Negligence**

§ 3501. Abolition of contributory negligence; assumption of risk; and last clear chance.

§ 3502. Contributory negligence no bar; comparative negligence; findings of fact.

§ 3503. Joint tort-feasors defined.

**§ 3501. Abolition of contributory negligence; assumption of risk; and last clear chance.**

(a) The common law doctrine of contributory negligence is abolished.

(b) The common law doctrines of assumption of the risk and last clear chance are abolished.

**Source**

RPPL 6-27 § 2, modified.

**§ 3502. Contributory negligence no bar; comparative negligence; findings of fact.**

(a) Contributory negligence shall not bar recovery in any action by any person or the person's legal representative to recover damages for negligence resulting in death or injury to person or property, but any damages allowed shall be diminished in proportion to the amount of negligence attributable to the person for whose injury, damage, or death recovery is made.

(b) In any action to which subsection (a) applies, the court shall make findings of fact which shall state:

(1) the amount of the damages which would have been recoverable if there had been no contributory negligence; and

(2) the degree of negligence of each party, expressed as a percentage.

(c) Upon the making of the findings of fact contemplated in subsection (b), the court shall reduce the amount of the award in proportion to the amount of negligence attributable to the person for whose injury, damage, or death recovery is made.

**Source**

RPPL 6-27 § 2, modified.

**§ 3503. Joint tort-feasors defined.**

For the purpose of this part the term "joint tort-feasors" means two or more persons jointly or severally liable in tort for the same injury to person or property, whether or not judgment has been recovered against all or some of them.

(a) Right of contribution; accrual; pro rata share. The right of contribution exists among joint tort-feasors. A joint tort-feasor is not entitled to a money judgment for contribution until the joint tort-feasor has by payment discharged the common liability or has paid more than the joint tort-feasor's pro rata share thereof. A joint tort-feasor who enters into settlement with the injured person is not entitled to recover contribution from another joint tort-feasor whose liability to the injured person is not extinguished by the settlement. When there is such a disproportion of fault among joint tort-feasors as to render inequitable an equal distribution among them of the common liability by contribution, the relative degrees of fault among joint tort-feasors shall be considered in determining their pro rata shares.

**Source**

RPPL 6-27 § 2, modified.

**DIVISION 5  
EVIDENCE**

**Chapter 40  
Privileges**

§ 4001. Spouses.

§ 4002. Certain conversations with anthropologists privileged.

**§ 4001. Spouses.**

Neither husband nor wife shall be compelled to testify against the other in the trial of an information, complaint, citation or other criminal proceeding.

**Source**

(Code 1966, § 341.) 7 TTC § 1.

**§ 4002. Certain conversations with anthropologists privileged.**

Subject to the limitations provided in this section, conversations held with an anthropologist in confidence in his professional character shall be privileged. No statement made in such a conversation nor the substance thereof shall be divulged without the consent of the person making it, nor shall the identity of any person making such a statement on any particular subject be divulged without his consent, except as provided herein. This privilege, however, shall not extend to the professional opinions or conclusions of an anthropologist even though they may be based in whole or in part on such conversations, nor shall it or the prohibition against divulging such statements or the identity of persons making them apply to admissions or confessions indicating that the person making them has committed murder in the first or second degree or voluntary manslaughter or is threatening to commit a crime in the future.

**Source**

(Code 1966, § 342.) 7 TTC § 2.

**Chapter 41**

**Authentication and Content of Records**

§ 4101. Official records.

**§ 4101. Official records.**

Books or records of account or minutes of proceedings of any department or agency of the United States of America or of the Trust Territory, or of any predecessor thereof, shall be admissible to prove the act, transaction or occurrence as a memorandum of which the same were made or kept. Copies or transcripts (authenticated by the official having custody thereof) of any books, records, papers or documents of any department or agency of the United States of America or of the Trust Territory, or of any predecessor thereof, shall be admitted in evidence equally with the originals thereof.

**Source**

(Code 1966, § 340.) 7 TTC § 51.

**Chapter 42**

**Burden of Proof in Defamation Actions**

§ 4201. Defamation actions.

**§ 4201. Defamation actions.**

The plaintiff in a defamation action shall be required to allege that the offending publication is false. Once this allegation is raised, the burden of proof shall shift to the defendant to show that the publication is true.

**Source**

RPPL 5-43 § 3.

**Chapter 43**

**Foreign Evidence**

§ 4301. Definitions.

§ 4302. Application.

§ 4303. Admissibility requirements for testimony.

§ 4304. Form of testimony.

§ 4305. Introduction of foreign material as evidence.

§ 4306. Proof of service of documents abroad.

§ 4307. Certificates relating to foreign material.

§ 4308. Operation of other laws.

**§ 4301. Definitions.**

In this chapter, unless the context otherwise requires:

(a) "authorized officer" means:

(1) the Attorney General of the Republic of Palau;

(2) a person appointed by the Attorney General, as an authorized officer for the purposes of this chapter;

(b) "foreign law" means a written law of or in force in a foreign State;

(c) "foreign material" means:

(1) the testimony of a person that:

(A) was obtained as a result of a request of a kind referred to in section 1311 of the Mutual Assistance in Criminal Matters Act of 2001, (chapter 13 of title 18 of the Palau National Code); and

(B) complies with the requirements of section 4304 of this chapter

(2) any exhibit annexed to any such testimony;

(3) any part of any such testimony or exhibit;

(d) "foreign State" means:

(1) any country other than the Republic of Palau; and

(2) every constituent part of such State or country, including a territory, dependency or protectorate, or political subdivision which administers its own laws relating to evidence; and

(e) "related civil proceedings," in relation to a criminal proceeding, means any civil proceedings arising from the same subject matter from which the criminal proceeding arose.

**Source**

RPPL 6-7 § 1[3], modified.

**§ 4302. Application.**

This chapter applies to:

(a) a proceeding before the Supreme Court that is:

(1) a criminal proceeding under the national law of the Republic of Palau; or

(2) a related civil proceeding;

(b) testimony obtained as a result of a request made by or on behalf of the Attorney General to a foreign State for the testimony of a person pursuant to the Mutual Assistance in Criminal Matters Act of 2001 (chapter 13 of title 18 of the Palau National Code); and

(c) any exhibit annexed to any such testimony.

**Source**

RPPL 6-7 § 1[4], modified.

**§ 4303. Admissibility requirements for testimony.**

To be admissible under this chapter, testimony must be taken before a court:

(a) on oath or affirmation; or

(b) under such caution or admonition as would be accepted by courts in the foreign State concerned, for the purposes of giving testimony in proceedings before those courts.

**Source**

RPPL 6-7 § 1[5], modified.

**§ 4304. Form of testimony.**

(a) The testimony may be recorded:

(1) in writing;

(2) on audio tape;

(3) on video tape; or

(4) by any other electronic or mechanical means.

(b) The writing need not:

(1) be in the form of an affidavit; or

(2) constitute a transcript of a proceeding in a foreign court.

(c) The testimony must be endorsed with, or accompanied by, a certificate stating that:

(1) it is an accurate record of the evidence given; and

(2) it was taken in a manner specified in section 4303.

(d) The certificate must:

(1) be signed or certified by a judge, magistrate, or court officer of the foreign State to which the request was made; and

(2) bear an official or public seal of:

(A) the foreign State; or

(B) an authority of the foreign State responsible for matters relating to justice, being a secretary or minister of state, a department or ministry of government, or an officer of the government.

**Source**

RPPL 6-7 § 1[6], modified.

**§ 4305. Introduction of foreign material as evidence.**

(a) Subject to subsection (b), foreign material may be introduced as evidence in a proceeding to which this chapter applies.

(b) The foreign material will be excluded from evidence if:

(1) it appears to the court's satisfaction, at the hearing or the proceeding, that the person who gave the testimony concerned is present in the Republic of Palau and is able to testify at the hearing;

(2) the evidence would not have been admissible had it been introduced by the person giving the testimony at the hearing in the Republic of Palau;

(3) it appears to the court that the interests of justice would not be served by admitting the evidence; or

(4) the evidence would be excluded under the Constitution of the Republic of Palau or any other law or rule of procedure applicable in the Republic.

(c) Foreign material introduced under this chapter shall not be excluded from evidence on the basis that such material is hearsay evidence under the Rules of Evidence in force in the Republic of Palau, if the court is satisfied as to the reliability and authenticity of the material.

(d) In reaching a decision pursuant to subsection (b)(3), the court shall take into account:

(1) the extent to which the foreign material provides evidence that would not otherwise be available;

(2) the probative value of the foreign material with respect to any issue that is likely to be determined in the proceeding;

(3) the extent to which statements contained in the foreign material were subject, at the time they were made, to challenge by cross-examination of the persons who made them;

(4) whether exclusion of the foreign material would cause undue expense or delay;

(5) whether exclusion of the foreign material would unfairly prejudice:

(A) any party in the criminal proceeding; or

(B) any party to related civil proceedings; and

(6) the reliability of the foreign material.

**Source**

RPPL 6-7 § 1[7], modified.

**§ 4306. Proof of service of documents abroad.**

The service of process in a foreign State may be proved by affidavit of the person who served it.

**Source**

RPPL 6-7 § 1[8], modified.

**§ 4307. Certificates relating to foreign material.**

(a) An authorized officer may certify that specified foreign material was obtained as a result of a request made to a foreign State by or on behalf of the Ministry of Justice of the Republic of Palau.

(b) There shall be a rebuttable presumption that the foreign material specified in the certificate was obtained as a result of that request.

**Source**

RPPL 6-7 § 1[9], modified.

**§ 4308. Operation of other laws.**

This chapter does not limit the ways in which a matter may be proved, or evidence may be introduced or admitted or excluded under the Constitution of the Republic of Palau, applicable rules of evidence, procedure, and other court rules, or any other law of the Republic of Palau or its States and its political subdivisions.

**Source**

RPPL 6-7 § 1[10], modified.