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RPPL No. 3-64

THIRD OLBIIL ERA KELULAU

Second Special Session, March, 1989 RPPL No. 3-64
(Intro. as House Bill No. 3-154-11,
HD1, SD1)

AN ACT

To establish a self-supporting and self-financing Social Security System for the Republic of Palau.

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

Section 1. Repeal. RPPL No. 2-29, except for Sections 6 through 12 thereof, is repealed in its entirety.

Section 2. Purpose of this Act.

(1) The purpose of this Act is to effect economy and efficiency in the fields of government and business by providing for a Social Security System in the Republic of Palau under which persons covered may be ensured a measure of security in their old age or during disability, and may be given in old age an opportunity for leisure without hardship and complete loss of income, and, further, to provide survivor's insurance for their spouses and children.

(2) Although the System is established by an Act and is compulsory, it is to be self-supporting and self-financing, and is not to be financed from public money (except to the extent that the government, in its capacity as an employer, makes contributions to the System).

Section 3. Definitions.

(1) As used in this Act, the following words shall have the following meanings ascribed to them unless context indicates otherwise:

(a) "Actuary" means a member of any society, institute or organization of qualified actuaries recognized in the Social Security By-laws.

(b) "The Board" means the Republic of Palau Social Security Board established by RPPL No. 2-29.

(c) "Child" means a person's natural child or a child adopted legally or through traditional customs, but does not include a natural child who has been adopted by some other person.

(d) "Contributions" means employee contributions or employer contributions or both, to the Retirement Fund.

(e) "Contributory Employment" means a period of employment within a quarter of coverage during which employee contributions were made.

(f) "Currently insured" means having had not less than eight quarters of coverage during the thirteen

quarter period ending with the quarter in which the contributor died, became entitled to old age insurance benefits, or became disabled.

(g) "Disability" means inability to engage in any substantial gainful employment by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last for a continuous period of not less than 12 months.

(h) "Employee" means a person who, under the usual common law rules applicable in determining the employer/employee relationship, has the status of an employee, and includes:

(i) an officer of a corporation; and

(ii) an elected official in any government unit or body; and

(iii) in accordance with Section 22, a self-employed person.

(i) "Employee contributions" means contributions made under Section 24 to the Retirement Fund.

(j) "Employee contributor" means a person who is making, or has made, employee contributions.

(k) "Employer" means a person who, under the usual common law rules applicable in determining the employer/employee relationship, has the status of an employer, and includes:

(i) in relation to an officer of a corporation, the corporation; and

(ii) in relation to an elected official in any governmental body or unit, the National Government or the local government concerned, as the case may be; and

(iii) in relation to a self-employed person in accordance with Section 22, that person.

(l) "Employer contributions" means contributions made under Section 25 to the Retirement Fund.

(m) "Employment" means:

(i) in the case of a citizen of the Republic of Palau, employment anywhere in the Republic of Palau and employment outside of the Republic of Palau if such employment is with an employer incorporated or domiciled in the Republic of Palau; and

(ii) in the case of any other person, employment anywhere in the Republic of Palau.

(n) "Fiscal Year" means a period of 12 months ending 30 September.

(o) "Fully insured" means having not less than one quarter of coverage under this Act for each year beginning with the later of June 30, 1968 or the year he attains the age of 21 years, and ending with the year before the earlier of the year in which he attains retirement age, becomes disabled, or dies.

(p) "Fund" means the Retirement Fund.

(q) "Month" means a month of the calendar;

(r) "Parent" includes an adoptive parent but does not include a

natural parent of an adopted child unless the child is adopted by the spouse of the natural parent.

(s) "Quarter" means a period of three months ending on March 31, June 30, September 30, or December 31 in any calendar year.

(t) "Quarter of coverage" means a quarter in which an employee contributor has been paid remuneration of not less than \$300 subject to this Act and payment has been reported under Section 26.

(u) "Remuneration" means remuneration paid by an employer to an employee, and includes:

(i) the cash value of remuneration paid in any medium other than cash; and

(ii) the remuneration of a self-employed person; and

(iii) a stipend; and

(iv) allowance, but does not include;

(v) any payment on account of sickness or accident, or medical or hospitalization expenses, made to or on behalf of an employee, other than sick leave pay or similar entitlements; and

(vi) any payment made to or on behalf of an employee or to his beneficiary from a trust or annuity; and

(vii) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business, or domestic service in a private home of the employer; and

(viii) remuneration paid for casual or intermittent labor not performed in the course of the employer's

trade or business when the labor is in not more than one week in each month of each quarter; and
(ix) remuneration in excess of the maximum remuneration.
(v) "The Retirement Fund" means the Social Security Retirement

Fund established by Section 18.

Ⓢ "The Social Security Administration" means the Republic of Palau Social Security Administration established by RPPL No. 2-29.

(x) "The Social Security Administrator" means the Social Security Administrator appointed under Section 11(1).

(y) "The Social Security By-Laws" means the By-Laws established under Section 15.

(z) "Year" means a year of the calendar ending December 31.

(2) Any reference to adoption in the definitions of "child" and "parent" is:

(a) an adoption in accordance with recognized custom in:

(i) The Republic of Palau; or

(ii) The Federated States of Micronesia; or

(iii) The Marshall Islands, which has been confirmed by a court in accordance with 21 FNC 104 or any similar law; or

(b) an adoption anywhere in a country referred to under 21 PNC Chapter 4; or

(c) a valid adoption under the law of some other country.

(3) On application by an employee, the Social Security Administrator may determine whether or not any employment is genuinely an employment to which this Act applies.

(4) Remuneration shall be computed to the nearest cent.

(5) A reference, direct or indirect, to an employer in relation to an employee, or an employee in relation to an employer, is a reference to them in their employer/employee relationship, and, as appropriate, includes a reference to their rights and obligations, and any other matter, arising out of that relationship.

Section 4. Coverage of this Act. All employees working in the Republic of Palau are covered by and subject to the provisions of this Act

and RPPL No. 2-29. All citizens of the Republic of Palau who are employed by an employer incorporated or domiciled in the Republic of Palau and who are working outside of the Republic of Palau are also covered by and subject to the provisions of this Act.

Section 5. Amendment of this Act. Any bill to amend this Act which has financial implications for the Retirement Fund must be accompanied by a report from the actuary.

Section 6. Actuary.

(1) The Board shall appoint an actuary on such terms and conditions as are agreed upon between the Social Security Administrator and the actuary.

(2) The actuary shall make actuarial valuations of the Social Security System not less frequently than once in every four years after the effective date of this Act.

(3) Any report submitted to the Board following an actuarial valuation shall be submitted by the Board to the Olbiil Era Kelulau, and to the President of the Republic of Palau, with any appropriate recommendations for changes in the System and amendments to this Act.

Section 7. Auditor.

(1) The Board shall appoint an independent auditor, on such terms and conditions as are agreed on between the Social Security Administrator and the auditor.

(2) The auditor shall audit the accounts of the Social Security System within 90 days after the end of the fiscal year.

(3) The Board shall, as soon as practicable, submit the accounts and the auditor's report to the Olbiil Era Kelulau, and to the President of the Republic of Palau, and the accounts and report shall be made available to the general public upon request.

(4) The Public Auditor shall issue annual reports on the fiscal soundness of the Social Security System, and such reports shall be provided

to the Board, the President of the Republic, and the presiding officers of the Olbiil Era Kelulau.
Section 8. By-Laws.

(1) The Board shall promulgate its own By-Laws, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed in the By-Laws, or which are necessary or convenient to be so prescribed, for carrying out or effectuating this Act.

Section 9. Hearings and Claims Appeals.

(1) Subject to the Social Security By-Laws, the Board may make decisions after holding hearings, or make decisions in the light of hearings held by persons authorized to do so, for the purpose of determining any question involving any right, benefit or obligation of any person under this Act.

(2) Any person aggrieved by a decision of the Administration involving any right, benefit or obligation of that person under this Act may appeal that decision in the following manner:

(a) within thirty days of receipt of the Administration's decision, the aggrieved person may file a request for reconsideration of that decision with the Administration and, along with that request, may provide any reasons or additional documentary evidence which would support a reversal of the original decision;

(b) if the original decision is upheld by the Administration, then, within thirty days of receipt of the reconsidered decision, the aggrieved person may file a request for a hearing before the Board and, along with that request, may provide any reasons or additional documentary evidence which would support a reversal of the reconsidered decision by the Administration;

(c) failure to adhere to this claims appeal procedure or failure to file a request within the stated time period shall result in the denial of the appeal and the loss of the right to further appeal the decision.

Section 10. Review of the Decision of the Board.

(1) Any person aggrieved by a final decision of the Board may obtain a review of the decision in the Supreme Court by filing with the Clerk of Courts, within 60 days after receiving notice of the decision, a written petition praying that the decision be modified or set aside in whole or in part.

(2) A copy of the petition shall be served on the Board, and thereupon the Board shall certify and file with the Clerk of Courts a copy of the record on which the order was based.

(3) The finding of the Board as to facts, if supported by competent material and substantial evidence, is final.

(4) If a party to a hearing:

(a) applies to the Supreme Court for leave to adduce additional material evidence; and

(b) shows to the satisfaction of the court that:

(i) there were reasonable grounds for failure to adduce the evidence at the hearing before the Board of the authorized person who held the hearing; and

(ii) the additional evidence is competent, material, and substantial, the court may order the additional evidence to be taken by the Board and to be adduced upon the hearing in such manner and upon such conditions as the Court thinks proper.

Section 11. Appointment of the Social Security Administrator.

(1) The Board shall appoint a person to be the Social Security Administrator.

(2) The compensation and other terms and conditions of employment of the Administrator are to be determined by the Board.

Section 12. Duties of the Administrator. The Social Security Administrator is responsible to the Board for the general administration of the Social Security System, and has such other powers, functions, duties and responsibilities as are prescribed by this Act or the Social Security By-Laws.

Section 13. Delegation by the Administrator.

(1) Subject to the Social Security By-Laws, the Social Security Administrator may, by written instrument, delegate to any employee of the Social Security Administration any of his powers and functions under this Act or the Social Security By-Laws.

(2) A delegation may apply to the whole of the Republic of Palau, or to the part of the Republic of Palau specified in the instrument of delegation.

(3) A delegation may be made subject to such limitations and conditions, as the Administrator deems proper and necessary.

(4) A delegation is revocable, in writing, at will, and no delegation prevents the exercise or performance of a power or function by the Administrator.

Section 14. Employment Records. The Social Security Administrator shall maintain records of all employee and of all contributors, including self-employed persons referred to in this Act.

Section 15. Secretary, Managers, and Other Staff.

(1) The Social Security Administrator may, on behalf of the Social Security Administration, appoint a secretary to the Board and hire such other employees necessary to carry out the provisions of this Act.

(2) The other terms and conditions of such employment are determined by the Social Security Administrator.

(3) The duties of a person employed are as prescribed by the Social Security By-Laws and, subject to those By-Laws, as determined by the Social Security Administrator.

Section 16. Preparation of the Budget.

(1) At such time as the Board directs, the Social Security Administrator shall prepare and submit to the Board, in the manner prescribed by the Social Security By-Laws, detailed budget estimates for the proper conduct of the Social Security System for the next fiscal year.

(2) The estimates shall include:

(a) the audited accounts of the Retirement Fund for the last fiscal year; and

(b) a statement showing the estimates of income and expenditures for the fiscal year in progress, together with any summaries, schedules and supporting data that the Social Security Administrator thinks necessary; and

(c) a budget showing the estimated income and expenditures for the next fiscal year.

Section 17. Costs of Administration.

(1) Except with the approval of the Olbiil Era Kelulau, the budget shall not provide for administrative expenses exceeding 20% of the estimated income for the fiscal year from contributions, civil penalties, interest, and dividend income on investments.

(2) "Administrative expenses" shall include salaries, wages and allowances, the cost of office supplies and equipment, operational expenses, and the maintenance of the office, but does not include capital expenses.

Section 18. Establishment of the Retirement Fund.

(1) There is hereby continued within the Social Security System a Social Security Retirement Fund.

(2) As the Retirement Fund consists of money held for the purposes of the Social Security System, it shall be kept in a separate account and apart from the Republic of Palau General Fund and any other fund or account established.

(3) The Retirement Fund shall be administered by the Social Security Administration exclusively for the purposes of this Act.

Section 19. Payments into the Fund.

The following shall be paid into the Retirement Fund:

(1) all contributions; and

(2) all civil penalties and interest; and

(3) all gifts and donations; and

(4) all proceeds from the investment of money from Fund; and

(5) all proceeds from the sale of assets of the System; and

(6) any money transferred from the Trust Territory Social Security Retirement Fund to the Fund; and

(7) any money transferred from the Prior Service Trust Fund to the Fund.

Section 20. Payments out of the Fund. All benefits and all expenses incurred in the operation of the Social Security System shall be paid from the Retirement Fund.

Section 21. Investment.

(1) Investment of Fund.