

**GOVERNMENT OF THE REPUBLIC OF PALAU
MINISTRY OF COMMERCE AND TRADE
BUREAU OF HUMAN RESOURCES DEVELOPMENT**

**DIVISION OF LABOR
RULES AND REGULATIONS**

JANUARY 2002

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PART 1. AUTHORITY AND PURPOSE

- 1.1 Authority: The Chief of the Division of Labor is authorized by Section 144 of Title 30 of the Palau National Code, as amended, to adopt rules and regulations regarding employment and labor practices in the private sector. The following rules and regulations are issued pursuant to Title 30 of the Palau National Code, the Protection of Resident Workers Act.
- 1.2 Purpose: The purpose of these regulations is to inform all parties of their rights, privileges, and obligations in regard to the employment of nonresident workers in the Republic of Palau, to insure a balanced and stable economy in the Republic of Palau, and to prevent the impairment of wages and working conditions of resident workers.
- 1.3 Basic Provisions: Employers in the private sector seeking to employ nonresident workers in the Republic of Palau shall secure identification certificates for such workers by applying to the Division of Labor, Bureau of Human Resources, Ministry of Commerce and Trade before such workers may enter the Republic of Palau. Certain conditions of employment shall be met by the employers and by the nonresident workers. Certain regulatory powers may be exercised by the Division of Labor, Bureau of Human Resources.

PART II. STATEMENT OF POLICY

- 2.1 It is essential to a balanced and stable economy in the Republic of Palau that workers who are citizens of the Republic be given preference in employment in occupations and industries in the Republic. The public interest requires that the employment of non-citizen workers in occupations and industries not impair the wages and working conditions of Palauan workers.
- 2.2 Resident workers shall be given preference in employment in the Republic of Palau in any job vacancy for which such workers are qualified and available. Nonresident workers shall be employed only to supplement the labor force of available and qualified resident workers.

PART III. DEFINITIONS

- 3.1 AAvailable@ means offering to perform services or labor for an employer at the time and place, and under the terms and conditions, designated by such employer;
- 3.2 ABureau@ means Bureau of Human Resources;
- 3.3 AChief@ means the Chief of Labor Division, Bureau of Human Resources;
- 3.4 ADirector@ means the Director of the Bureau of Human Resources;
- 3.5 ADivision@ means the Division of Labor, Bureau of Human Resources;
- 3.6 AEmployer@ means any individual, partnership, association or corporation hiring, employing, or otherwise engaging for compensation any resident worker or non-resident worker to perform services or labor within the Republic of Palau, but does not include the National Government of the Republic or its agencies;
- 3.7 AIdentification Certificate@ means a work permit or an employment permit which authorizes the nonresident worker to work in the Republic of Palau;
- 3.8 AMinister@ means the Minister of Commerce and Trade;
- 3.9 AForeign fishing vessel@ means a vessel registered in a jurisdiction other than Palau which is fishing in the Republic pursuant to a permit issued by the Republic
- 3.10 AMinistry@ means the Ministry of Commerce and Trade;
- 3.11 AMissionary@ means a person sent out by a religious organization (i) to preach or teach religion or (ii) to work as a lay worker in hospitals or provide other community services if the salary and other financial support of the person is primarily paid by a religious organization outside of Palau.
- 3.12 ANonresident Worker@ means any available individual who is capable of performing services or labor desired by an employer and who is not a Resident Worker;
- 3.13 APersonal service@ means the delivery of a letter, notice, citation and any other documents to a party, to a clerk, or other person in charge of the party=s office, or to a responsible adult of suitable discretion working at the party=s office or residing at his living place;
- 3.14 AProfession@ means lawyer, doctor, scientist, certified public accountant, or other position requiring a post-graduate degree and/or certification, as determined by

the Chief of Labor Division and approved by the Director or the Minister;

- 3.15 ARepublic@ means Republic of Palau;
- 3.16 AResident Worker@ means any available individual who is capable of performing services or labor desired by an employer and who is a citizen of the Republic of Palau, or a non-citizen who has been granted permanent resident status pursuant to law; or employee of the Republic of Palau;
- 3.17 ASubcontractor@ means performing a given contract where materials, transportation and labor, etc., are provided by subcontractor.

PART IV. ANNOUNCEMENT/ ADVERTISEMENT REQUIREMENT

- 4.1 All position vacancies proposed shall be announced / advertised for a period of 30 days by the Labor Division. During this 30-day period the Division shall attempt to locate a qualified Palauan citizen to fill the vacancies.
- 4.2 The announcement / advertisement shall specify (a) the occupational position, (b) the job location, (c) the minimum wage in dollars and cents, (d) any pertinent details about job duties and required qualifications, and (e) how to contact the employer.
- 4.3 Announcements / advertisements with language requirements other than Palauan or English shall not be accepted in applications to employ nonresident workers without a written justification submitted by the employer and approved by the Chief.
- 4.4 Where a managerial or professional position is desired by the employer, the Chief or his representative at his discretion will cause the application to be processed immediately if he has reasonable reason to believe no citizen or permanent resident is qualified and available for such positions so as to facilitate economic development.

PART V. PROCESS FOR EMPLOYING NONRESIDENT WORKERS

- 5.1 Applications for new hires shall include the following documents:
 - (a) An application form for a permit to employ a nonresident worker in the Republic of Palau.
 - (b) Payment of non-refundable application fee.

- (c) A standard employment contract form issued by the Division. Employers may include additional provisions in the employment contract provided such additions shall not supersede any provisions of the standard employment contract.
- (d) Original Certificate of Clearance in English from the police authorities in the country and area of the nonresident worker's residence. Such a certificate shall be authenticated or attached to a valid certificate of National Bureau of Investigations (NBI) or similar National Agency (i.e. US Federal Bureau of Investigation (FBI)). The Division may exempt the NBI requirement and accept police clearance only if at the discretion of the Division such a police clearance was properly and legally issued by a competent authority at the point of origin.
- (e) Original Health Certificate in English from the Public Health authorities in the area of the nonresident worker's residence. Such a certificate shall be authenticated by the Ministry of Health Services or equivalent Government Agency responsible for National Health Services. The Division may exempt the Ministry of Health Services authentication requirement and accept local health service certificates only if, at the discretion of the Division, such a health certificate appears to have been issued by a competent medical health officer.
- (f) Affidavits by at least two previous employers indicating at least a minimum of two years work experience in the line of work for which the worker is being hired. Affidavits from travel agents, employment and placement agencies shall not be accepted.

5.2 Application Review: The Division shall review the application to insure that the application fee has been paid and that all required documents are presented and completed. The Division shall issue a receipt for accepting such application. If the applications are not complete, such are to be returned with explanations as to why they are returned. No receipt is necessary for returned applications.

5.2.1 The Division shall review the application to determine whether the position is required and whether the employment of the nonresident worker is in the best interests of the Republic. The Chief will generally determine that the employment of the nonresident worker is not in the best interests of the Republic when:

- (a) the application contains false information;
- (b) additional workers do not appear reasonably necessary for the vacancy applied for;
- (c) the job classification applied for is already occupied by a sufficient number of Palauan employees or Palauan business entrepreneurs;
- (d) the employer has failed to demonstrate commitment to train a

resident worker for the position applied for;

- (e) employees or former employees of either the employer or business establishments directly tied to the employer have been convicted of sex crimes;
- (f) the Division has issued a written determination that the employer has violated Title 30 of the Palau National Code, these regulations, or the employment contract on at least one occasion within the past year;
- (g) a Court in the Republic has found probable cause to conclude that the employee applicant has engaged in a felony or a sex crime;
- (h) the recruiter or recruitment agency referring the worker has been found by the Division to have previously provided false information to employers, employees, or the Division; or
- (i) additional grounds as determined at the discretion of the Chief.

5.2.2 For those positions for which the Chief has determined that nonresident workers may be hired, he or she shall require that a nonresident worker employment agreement be entered into between the employer and the national government, which agreement shall authorize the employer to hire the nonresident worker.

5.3 Issuance of an Identification Certificate: Upon payment of the nonresident worker fee, the Division of Labor shall issue a nonresident worker identification certificate for each worker whose application is approved and shall notify the Immigration Office of the issuance of the identification certificate.

5.3.1 An employer may recover a maximum of 50% of the nonresident worker fee from the nonresident worker. The agreement to recover such amount shall be disclosed in the employment contract.

5.3.2 No employer may employ a nonresident worker and no nonresident worker may work in the Republic prior to the issuance of the nonresident worker identification certificate or provisional identification certificate.

5.4 Provisional Identification Certificate: For nonresident workers entering the Republic to begin their employment, the Division may issue a provisional identification certificate pending successful completion of the physical examination required by Part 5.6 and the attainment of a social security number. The Provisional Identification Certificate, in conjunction with a Provisional Labor Visa issued by the Bureau of Immigration, will allow the nonresident worker to enter the Republic and begin employment.

5.4.1 Within ten days of entry, the nonresident worker shall report to the Labor Office, surrender the Provisional Identification Certificate, and present proof that he/she has satisfactorily completed the physical exam and obtained a social security

- number. The nonresident worker will then be issued a nonresident worker identification certificate valid for one year from the date of the worker=s arrival.
- 5.4.2 Should the nonresident worker fail to satisfactorily complete these requirements, he or she shall be required to depart the Republic upon the expiration of the Provisional Labor Visa.
- 5.5 Entry into the Republic of Palau: A nonresident worker may enter the Republic of Palau to work only if he or she has a valid identification certificate (work permit), entry permit, and certificate of freedom from chronic or communicable disease executed and validated not more than thirty days preceding the date of entry into the Republic of Palau by a physician licensed to practice medicine in the country of origin. These documents shall be presented at the point of entry to responsible officials of the National Government of the Republic.
- 5.5.1 If a nonresident worker fails to enter the Republic of Palau within sixty days from the date of issuance of the provisional identification certificate, the identification certificate shall be void and entry denied. No refunds shall be made to an employer unless a request is made within sixty days from the date of issuance of the identification certificate. All such refunds are at the discretion of the Chief. Alternatively, the employer may apply to the Chief for a 60-day extension of the provision identification certificate upon payment of a \$50 fee.
- 5.6 Post - Entry Physical Examination: Within ten days after authorized entry into the Republic of Palau for employment purposes, the nonresident worker shall present himself or herself, together with all accompanying family members, to the Department of Social Services (Public Health) for a physical examination. If the worker or accompanying family member is diagnosed with a communicable disease, the Director of Public Health may order that the nonresident worker and all accompanying family members depart the Republic at the employer=s expense.
- 5.7 Cancellation / Revocation of Identification Certificate: The identification certificate may be canceled by the Division of Labor for refusal by the employer or employee to comply with the labor laws, regulations, or other laws of the Republic of Palau. If the identification certificate is so canceled, the Division of Labor will notify the Bureau of Immigration that the identification certificate has been canceled. If the employee holds a Labor Visa, cancellation of the Identification Certificate automatically cancels the Labor Visa.
- 5.8 Temporary Permits:
- 5.8.1 Temporary identification certificates may be issued by the Division of Labor for workers who are needed in the Republic of Palau for 90 days or less.
- 5.8.2 To acquire a temporary identification certificate, the employer must submit application forms to the Division of Labor for approval. A single extension of a temporary identification certificate up to another 90 days may be granted by the

Division but the total time period, including any extensions, shall not exceed 180 days. Announcement of positions for temporary certifications not required.

- 5.8.3 Any attempt to use the provision regarding temporary employees under Section 12,2 of Title 30 as a waiver for the requirements imposed under Title 30 Section 161 of the Palau National Code shall be the cause for denial of such application or for revocation of such permit.

PART VI. CONDITIONS OF EMPLOYMENT

- 6.1 Employment Restrictions: A nonresident worker shall be employed only in the job classification and by the employer for which he or she has been approved by the Division of Labor. This condition does not prohibit legitimate subcontractor arrangements.
- 6.1.1 An employer shall not permit or allow his or her nonresident workers to be Aon loan basis or otherwise@ to any projects not directly controlled by the employer. Violators will be subject to a fine as provided in Part 18.
- 6.1.2 A non-resident worker shall not perform any work on any projects not directly controlled by his or her employer. Violators will be subject to a fine as provided in Part 18. Nonresident workers are not permitted to engage in Ajob shopping.@
- 6.2 Age Restrictions: A Nonresident workers shall be between twenty-one and sixty years of age, excluding entertainers applying for temporary identification certificates. The maximum age restriction may be waived by the Chief upon a showing that the worker provides an irreplaceable service to the employer or where the worker is married to a Palauan or has Palauan dependents and provides support for family members.
- 6.3 Employer Financial Requirements: The Chief, in his or her discretion, may require the employer to submit financial statements certified by a competent person and/or a bank which indicate the employer's ability to pay the nonresident worker's wages and repatriation costs.
- 6.3.1 The Chief, in his or her discretion, may require the employer to deposit in the National Treasury a cash bond in an amount sufficient to cover both three (3) months wages and return transportation for the employee. The funds may be used by the Division in case the employer defaults in payment of wages and/or repatriation costs. This bond must be paid prior to issuance of an identification certificate or a provisional identification certificate.
- 6.3.2 Such bond is mandatory whenever the employer:
- (a) has not pay fees, fines, or owed to the Division of Labor or the Tax or Social Security Offices, unless a written agreement has been entered into providing

for such payment;

- (b) has been unable or refused to pay for the return transportation of a nonresident worker;
- (c) has been unable or refused to pay the wages of a nonresident worker as required by the employment contract or order of the Chief, or
- (d) has otherwise failed to meet financial obligations required pursuant to these regulations.

6.4 Return Transportation to the Point of Hire: The employer shall provide, at no expense to the nonresident worker, economy class transportation from the original point of hire to Palau and back. THE EMPLOYER IS RESPONSIBLE FOR THE COSTS OF RETURN TRANSPORTATION REGARDLESS OF THE REASON FOR THE NONRESIDENT WORKER=S DEPARTURE. The employer and the nonresident worker may provide in the employment contract that a portion of the worker=s wages be withheld to cover transportation costs back to the point of hire in the event of a breach of contract by the worker or in the event that the worker terminates his or her employment without cause. The amount withheld shall not exceed 100% of the actual cost of the return leg of the trip. The amount withheld shall be refunded to the nonresident worker at the completion of his or her employment contract, upon transfer of the employee to a new employer, or when the employee is terminated without cause.

6.5 Workplace Conditions: To ensure safe and healthful working conditions for both resident and nonresident workers in the Republic, employers shall furnish and use personnel and other safety devises to safeguard against and prevent personnel injuries and illnesses arising out of the work environment.

Employers shall adopt reasonable and adequate health and safety rules and regulations and shall require their employees to comply with such regulations for the benefit of both employers and employees. Employers shall provide an adequate supply of drinking water and sufficient and sanitary toilet facilities at the work site or reasonable access thereto.

6.6 Medical Expenses: Employers shall be responsible for all medical expenses arising from employment-related activities.

6.7 Maximum Food & Housing Deductions: The maximum deduction to be made from the wages of a nonresident worker for food and housing shall be set annually by the Director, subject to the approval of the Minister. In no event shall such deduction amount to more than 50% of the employee=s wages.

6.8 Transportation to Worksite: An employer shall provide transportation for nonresident workers from their housing site or from a convenient central meeting place to and from any job site located beyond reasonable walking distance. When

such transportation is provided, it shall be equally available to resident workers.

- 6.9 Possession of Identification Certificate: The nonresident worker shall keep his/her identification certificate on his/her person at all times, provided that, just prior to the worker's termination and departure from the Republic of Palau or to the submission of and application for transfer or for extension or renewal of the identification certificate, the identification certificate shall be turned over to the employer who shall return it to the Division of Labor.

PART VII. MINIMUM WAGE AND SALARIES

- 7.1 Skilled resident workers shall be given wages and salaries at least equivalent to those given to nonresident workers.
- 7.2 If annual and sick leave and other benefits are given to nonresident workers, the same benefits shall also be given to resident workers.

PART VIII. LIVING CONDITIONS

An employer shall be responsible for meeting the following conditions where the employer provides housing to non-resident workers and controls the occupancy of the housing. Violations of this Part may be enforced by either the Division or the Division of Environmental Health and Sanitation, Ministry of Health.

- 8.1 Site of Housing:
- 8.1.1 Grounds around worker housing shall be adequately drained to prevent flooding, collection of waste water, and mosquito breeding.
- 8.1.2 Grounds around worker housing shall be maintained in a clean and sanitary condition free of rubbish, debris, waste paper, garbage, and other refuse. Occupants of worker housing are responsible for assisting in this responsibility to the degree that they generate such refuse.
- 8.1.3 Whenever worker housing is closed between projects or on a permanent basis, the employer shall insure that all garbage, waste and other refuse that would cause a nuisance is collected and disposed of and that the grounds and housing are left in clean and sanitary condition. All abandoned outhouse pits shall be filled with earth. Remaining out-houses shall be locked or otherwise secured to prevent unauthorized entrance.
- 8.2 Shelter:
- 8.2.1 Worker housing shall be constructed in a manner which will provide protection against the elements, including wind, rain and flood, fire, and landslides.

- 8.2.2 Each room for sleeping purposes shall contain at least 50 square feet of floor space for each occupant. At least a 7-foot ceiling shall be provided.
- 8.2.3 Separate bedding, which may include bunks, shall be provided for each occupant:
- (a) Spacing of single bedding shall not be closer than 36" both side-to-side and end-to-end.
 - (b) Elevation of single bedding shall be at least 12" from the floor.
- 8.2.4 Where workers cook, live, and sleep in a single room, a minimum of 100 square feet per person shall be provided.
- 8.2.5 Natural ventilation consisting of openable windows shall be provided, the area of which shall not be less than 1/4 the floor area of the living quarters. In lieu of natural ventilation, mechanical ventilation may be provided. Mechanical ventilation shall provide at least 15 cubic feet of fresh air per person per minute.
- 8.2.6 All exterior openings shall be screened with at least 16-mesh per inch material.
- 8.2.7 Each room in the housing shall be provided with adequate lighting, including artificial lighting at night appropriate for customary leisure activities.
- 8.3 An adequate and convenient water supply shall be provided for drinking, cooking, bathing, and laundry purposes.
- 8.4 Toilet Facilities:
- 8.4.1 The number of sit-down toilets to be provided shall be no less than one per fifteen persons. Where there are 10 or more persons of different sex using the toilet facility, separate toilet facilities, appropriately identified, shall be provided for each sex.
- 8.4.2 Toilet facilities shall be located within 200 feet of the sleeping quarters. No toilet facility shall be located in a room used for other than toilet purposes. No outhouse pit shall be within 100 feet of any sleeping room, eating area, or kitchen.
- 8.4.3 Natural ventilation consisting of openable windows or other openings shall be provided, the area of which shall not be less than 1/10 of the floor area of the toilet facility. In lieu of natural ventilation, mechanical ventilation capable of exhausting at least 2 cubic feet per minute per foot of floor area may be provided.
- 8.4.4 All outside openings shall be screened with at least 16-mesh material.

8.4.5 Toilet facilities shall be of sanitary and easily cleanable construction and shall be maintained in sanitary condition by the individuals using the facilities or else by the employer.

8.4.6 Toilet facilities shall have adequate lighting, including safe artificial lighting at night.

8.4.7 Access to toilet facilities shall not intrude upon private sleeping quarters.

8.5 Laundry, Hand Washing and Bathing Facilities:

8.5.1 Sanitary laundry, hand washing, and bathing facilities shall be provided in the following ratio:

- (a) One laundry tray or tub for every thirty or less persons or an equivalent laundry alternative;
- (b) One hand wash basin per family or per six or less persons;
- (c) One shower head for every ten or less persons;
- (d) One slop sink in each building used for laundry, hand washing, bathing.

8.5.2 Facilities shall be, of sanitary and easily cleanable construction and shall be maintained in sanitary condition by the individuals using the facilities, or else by the employer. Floors shall be of a smooth, but not slippery surface.

8.6 Sewage and Refuse Disposal:

8.6.1 Where public sewers are available, all sewer lines and floor and sink drains from toilet, laundry, hand washing, bathing, or kitchen facilities shall be connected thereto.

8.6.2 Garbage shall be stored in disposable or cleanable containers that are secure from flies, rodents, other vermin, and water. Containers shall be kept clean. Containers shall be emptied not less than twice a week.

8.7 Food Storage, Kitchen, and Eating Facilities:

8.7.1 Food or cooking facilities are to be provided wherever workers are provided common living quarters.

8.7.2 Cooking facilities shall be in an enclosed and screened shelter.

- 8.7.3 Where workers prepare their own food, the ratio of cooking burners shall not be less than four burners to 10 persons or four burners to two families, and in no case less than two burners.
- 8.7.4 Food shall be stored safe from contamination by water, dirt, poisonous substance, rats, files [sic] or other vermin.
- 8.7.5 Refrigeration facilities shall be provided for storage of perishable food.
- 8.7.6 No person with a communicable disease shall be employed in the preparation or serving of meals.
- 8.7.7 Facilities shall be adequate for insuring sanitary maintenance of eating and cooking utensils.
- 8.7.8 There shall be no direct openings from dormitory-type sleeping rooms into a room where meals are prepared.
- 8.8 Health Measures:
- 8.8.1 Adequate first aid supplies shall be available at the living site for the emergency treatment of injured persons.
- 8.8.2 The employer shall report to the Bureau of Public Health the name and address of any non-resident worker known to have or suspected of having a communicable disease.
- 8.8.3 The employer shall report to the Bureau of Public Health any case of food poisoning or unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting or jaundice is a prominent symptom.

PART IX. DEPARTURE OF NONRESIDENT WORKERS

- 9.1 Employment Clearance Requirements: At the time of any departure from the Republic of Palau during the period of an employment contract or following expiration or termination of an employment contract, a nonresident worker shall present a signed Employment Clearance Form at the point of departure. The Employment Clearance Form, which shall be signed by the nonresident worker and the employer, shall confirm that no outstanding contractual obligations or disputes exist between the nonresident worker and the employer. An official Employment Clearance Form shall be made available to nonresident workers and employers at the Division of Labor and at the Bureau of Immigration.
- 9.1.1 Should the employer refuse to sign an employment clearance, the nonresident worker may request that the Chief or his designee sign the clearance in place of

the employer. If, upon investigation, the Chief or his designee determines that the employer is unavailable or has improperly withheld signature, the Chief or his designee shall sign the clearance form.

- 9.1.2 A nonresident worker and an employer may agree to waive the employment clearance requirement by submitting a notarized letter signed by both the nonresident worker and the employer to the Division of Labor, which shall keep the letter on file. By agreeing to waive the employment clearance requirement, the nonresident worker and employer agree that the Division of Labor will not be asked by either party to become involved in any subsequent disputes between the nonresident worker and the employer regarding any departure from Palau by the nonresident worker. A copy of the letter should be presented by the nonresident worker to the Bureau of Immigration at the point of departure.
- 9.1.3 Violation: A worker who fails to provide an employment clearance or waiver at the time of the nonresident worker=s departure from the Republic may be prohibited by the Chief from obtaining a permit to work in the Republic for a period of two years.
- 9.2 Return of Identification Certificate: Prior to a nonresident worker=s termination and departure from the Republic of Palau, the worker=s identification certificate shall be turned over to the Division of Labor.

PART X. APPLICATIONS FOR RENEWAL

- 10.1 Applications for renewal shall be treated as applications for new hires and shall include the following information:
- (a) Job vacancy advertisement as for new hires;
 - (b) Employer applications and agreement;
 - (c) Employment Contract;
 - (d) Republic of Palau National Police Clearance;
 - (e) Worker=s expiring work permit; and
 - (f) Local health certificate of freedom from communicable disease.
- 10.2 Applications for renewal shall be submitted 45 days prior to the expiration of the worker=s identification certificate. Late applications may be considered for approval at the discretion of the Division but will be subject to a fine of ten dollars (\$10.00) per day.

PART XI. TRANSFER

- 11.1 Applications for transfers shall include the same documents as for renewals, plus a letter from the employer who is holding the worker=s contract consenting to the transfer and explaining why the employer no longer wants or needs the services of a nonresident worker in the job category in question. The nonresident worker must remain with the present employer until the transfer has been approved and employment permits have been issued to that effect.
- 11.2 Applications for transfer shall be treated as applications for new hires. An application to transfer will not be approved if the nonresident worker whose transfer is requested has not completed a minimum of twelve months employment tenure with the present employer.
- 11.3 If a transfer is approved, the new employer assumes all responsibilities of the employer pursuant to the employment contract and these regulations, including the responsibility to repatriate the employee to the point of hire.
- 11.4 If a transfer is disapproved, the present employer shall repatriate the nonresident worker to the point of hire as he is no longer needed by the present employer.
- 11.5 If an employer voluntarily transfers a nonresident worker to another employer either prior to, at, or after the expiration of the nonresident worker=s contract, the Division of Labor will under no circumstances permit the vacancy created by the transfer to be filled by another nonresident worker for a period of two years from the date of the transfer.
- 11.6 An application for a transfer at the expiration of the nonresident worker=s contract shall be submitted 45 days prior to the expiration of the worker=s identification certificate. Late applications may be considered for approval at the discretion of the Division but will be subject to a fine of ten dollars (\$10.00) per day.

PART XII. RECORD MAINTENANCE

- 12.1 Employer shall keep the following records for presentation upon demand by the Bureau of Labor:
 - (a) The name, address, age, local residence, job classification, and wage rate of each employee;
 - (b) Payrolls showing the number of hours worked each week, the compensation earned, and deductions made for each employee;
 - (c) The citizenship, point of hire, entry permit expiration date, and

educational and experiential background of each nonresident employee;

- (d) The number of employment-related accidents, the name of any injured worker, the type of injuries, the treatment, the outcome of treatment, the worker=s subsequent employment status, and the amount of time lost from work;
- (e) The number of illnesses of nonresident workers, the names of such workers, the types of illnesses, the treatment, the outcome of treatment, the worker=s subsequent employment status, the amount of time lost from work, and whether hospitalization was required;
- (f) A copy of the nonresident worker agreement authorizing the hiring of the nonresident worker in question.

12.2 Failure to maintain such records or provide them to the Chief upon demand is punishable as provided for in 30 PNC ' 187 or in Part XVIII of these Regulations.

PART XIII. VACANT

PART XIV. CHANGE OF STATUS

- 14.1 The nonresident worker identification certificate must be issued PRIOR TO the worker's arrival in the Republic. Persons in the Republic on a tourist/visitor visa shall not be issued a nonresident worker identification certificate while remaining in the Republic.
- 14.2 Persons present in the Republic pursuant to a resident, spouse, dependent, government, or missionary visa may change status while remaining in the Republic but will be required to pay a change of status fee.

PART XV. SPOUSES AND DEPENDENTS OF PALAUANS

- 15.1 A nonresident worker who is legally married to a citizen of the Republic of Palau or has been adopted by a citizen of the Republic is not exempt from the requirements of Title 30 of the Palau National Code.

PART XVI. EXEMPTION OF MISSIONARY

- 16.1 The Division does not consider an individual meeting the definition of a Missionary in these regulations to be a nonresident worker. Such individual is thus exempt from the requirements of these regulations.

PART XVII. OFFICERS AND CREW OF FOREIGN FISHING VESSEL

- 17.1 All nonresident workers employed as officers or crew on board foreign fishing vessels based primarily in the Republic of Palau are required to obtain a nonresident worker identification certificate. A vessel will be considered to be based primarily in Palau if it is physically present within the territorial waters of the Republic of Palau for more than sixty (60) days (cumulative) per calendar year.
- 17.2 In lieu of the documents required in Part 5.1, the employment of nonresident workers as officers or crew on board a foreign fishing vessel requires submission of the following.
- a. an application form submitted by the employer;
 - b. a copy of the nonresident worker=s passport or seamen=s book;
 - c. a sworn affidavit completed by the nonresident worker; and
 - d. a copy of the employment contract used by the vessel owner.
- 17.3 Applications to employ a nonresident worker as an officer or crew on board a foreign fishing vessel must satisfy all other requirements of Part 5 except that such workers are not required to obtain a social security number prior to issuance of the provisional identification certificate.
- 17.4 A nonresident worker identification certificate issued pursuant to this Part shall be valid for a period of one year from the date of issuance. Applications for renewal shall be accompanied by the renewal fee and pictures and shall include the information required pursuant to Part 17.2.
- 17.5 The employment clearance requirements of Part 9 are inapplicable to officers and crew on board a foreign fishing vessel. The housing requirements of Parts 8.1 through 8.7 are inapplicable in situations where the nonresident employees are housed on board the fishing vessel.

PART XVIII. COMPLIANCE MONITORING, CITATIONS

- 18.1 The Division shall monitor compliance with the laws, rules and regulations governing the Protection of Resident Workers Act by inspection at work sites and at housing facilities provided to nonresident workers by their employers.

- 18.2 Inspections shall include oversight, monitoring and review of the use of nonresident workers; identification certificate reviews; review of employers' records, working and living conditions, and minimum wage requirements; interviews with workers and employers; and any other action as deemed necessary by the Division.
- 18.3 The Division may issue citations to those who are in violation of the provisions of Title 30 of the Palau National Code and these Rules and Regulations. The citations shall specify any findings of noncompliance and impose fines in the following amounts:
- Worker fails to carry his/her Identification Certificate (30 PNC ' 1611(c)).....\$25
 - Worker engages in outside employment for compensation (30 PNC ' 169(a).....\$50
 - Employer uses worker without an Employment Agreement (30 PNC ' 169(a)...\$50
 - Employer using employee contrary to Employment Agreement (30 PNC ' 170)\$50
 - Employer failure to maintain or present required records (30 PNC ' 145)\$50
 - Employer failure to satisfy housing and health requirements (Part. 8)\$50
- 18.4 A party found in noncompliance shall pay the fine indicated in the citation at the National Treasury on or before the date indicated. He or she shall obtain a receipt and present the receipt or copy thereof to the Division.
- 18.5 An aggrieved party may appeal a finding of non-compliance to the Chief within 10 days of the receipt of the citation according to the provisions of 30 PNC ' 184. A citation not timely appealed to the Chief shall be final for all purposes.
- 18.6 The Division may approve no application, request for transfer, renewal, or extension involving a party that has an unpaid citation until such citation is paid. During the pendency of any appeal, however, applications shall be handled in the usual course.

PART XIX. DISPUTE RESOLUTION

- 19.1 Any person may file a complaint with the Chief that a violation of the provisions of the Protection of Resident Workers Act or these Rules and Regulations has occurred. Any employee or group of employees may file a grievance with the Chief in matters related to unsafe working conditions, nonpayment of wages, working hours, contract termination, or other breach of the employment agreement or violation of Title 30 of the Palau National Code or these regulations. Upon receipt of a signed grievance the Chief shall begin an investigation. Unsigned grievances or complaints shall be handled at the discretion of the Chief.
- 19.2 Preference Denial. Resident Workers rejected for an advertised job may file a signed written grievance with the Chief. In the event the employer applies to the

Division to employ a nonresident worker in that job, the Chief shall initiate an investigation as to whether a qualified resident worker was denied preference in employment.

- 19.3 Termination by Employer for Cause: If a nonresident worker is terminated by an employer for cause before the end of the worker's contract, the employer shall give written notice to the worker and a copy of such notice to the Division of Labor at least ten days prior to the effective date of the termination. The notice shall state the nonresident worker's name, the number of the identification certificate, the reasons for termination and the expected date of departure from the Republic of Palau. Within this ten day period the worker may choose to accept termination and to depart immediately.
- 19.3.1 Upon receipt of a written termination notice, the Chief shall immediately review the reasons for termination. If the terminated worker files a written complaint concerning the failure of the employer to comply with the conditions of the employment contract between the worker and his or her employer, the Chief shall immediately initiate an investigation.
- 19.3.2 Pending the decision of the Chief, wages may be withheld by the employer after notice of termination for cause. Shelter and food shall be provided during the ten day waiting period if wages are withheld or if shelter and food had been provided by the employment contract. A sufficient living allowance may be provided in lieu of food and shelter.
- 19.3.3 If the Chief finds that the employer has complied with relevant contractual provisions in terminating the worker, the worker shall leave the Republic of Palau on or before the date designated by the Chief in a written order served upon the person of such worker.
- 19.3.4 Retroactive Payment of Wages: If the Chief finds that the employer failed to comply with relevant contractual obligations in terminating a nonresident worker, the employer shall be required to pay all regular wages that would have accrued to the employee from the date of the termination notice to the date of the ruling and to comply with any other sanction ordered by the Chief. If the Chief finds that the employer did, in fact, comply with relevant contractual provisions in terminating a nonresident worker, the employer shall not pay any wages to the employee from the effective date of termination notice unless the employment contract requires otherwise.
- 19.3.5 Re-Entry after Early Termination: A nonresident worker sent home for violating or prematurely terminating their contractual agreement without cause shall not be allowed to return to work in the Republic of Palau for a minimum of two years.
- 19.4 Payment of wages: The employer shall pay his or her employees wages and / or salaries due them, promptly and on schedule. Should the employer fail to do so,

the affected employee shall first try to resolve the issue with his or her employer. If the employee is not compensated accordingly, he or she should submit a written complaint to the Division of Labor. The Chief shall initiate an investigation and render his decision accordingly.

19.4.1 Failure by a nonresident worker to file a claim against his/her employer for nonpayment of wages within 30 days after the alleged nonpayment occurred shall result in an irrebutable presumption that the employee was fully compensated. Any claims for back wages and salaries submitted after that period shall not be entertained.

19.4.2 The Division will not entertain claims for front pay.

19.5 Other Contractual Obligations: If the employer fails to comply with other contractual obligations provided for in the employment contract, nonresident workers shall first attempt to resolve such issues with their employers. If nothing is resolved, the nonresident workers affected should submit a written complaint to the Division of Labor. The Chief shall initiate an investigation and shall render a decision accordingly.

19.6 Investigations:

19.6.1 Investigations of complaints or grievances may include site inspections, documents reviews, and interviews with the parties to the complaint or grievance and with relevant witnesses, as the Chief deems necessary. Interviews may be conducted separately or in the presence of other parties to the complaint or grievance and with relevant witnesses, at the discretion of the Division. The Division may interview the parties and witnesses in the field or upon advance written notice at a specified location. Failure of a party to respond to a written notice of an interview or respond to a written letter asking for information shall not prejudice the Division in rendering its decision based on other information provided by or about that party, nor shall it delay the Division's ruling except where good cause is shown for failure to appear or to provide the information as solicited by the Division.

19.6.2 Parties to a complaint or grievance may submit written statements and documentary or material evidence to the Division during the investigation.

19.7 Settlement: A settlement agreement may be reached between the parties with the assistance of the Division. A record of such settlement specifying its conditions shall be prepared by the Division and signed by both parties. The official of the Division will sign only as a witness to the settlement agreement. Acceptance of the agreement shall constitute the ruling of the Division and the case shall be closed.

19.7.1 The Division shall encourage the parties involved to attempt to settle their

differences first, but where settlement agreement cannot be reached, the Division shall issue its written ruling. The ruling shall be in letter form and include the following information:

- (a) Complaint or grievance;
- (b) Information considered by the Division in reaching its decision;
- (c) Title, sections, subsections of laws, rules and regulations, or contract provisions violated;
- (d) Orders directed to either one or both parties.

PART XX. PENALTIES AND INJUNCTIONS

- 20.1 Whenever, after investigation or hearing, the Division finds that an employer or employee has violated a statute of the Republic of Palau, these regulations, or applicable contractual obligations, the Chief or his designee may order any appropriate sanction including cancellation of nonresident employment agreements with the employer for a stated period, permanent or temporary transfer of any involved nonresident worker to another employer with the consent of such worker and such other employer, or assessment of civil penalties in accordance with the law.
- 20.2 The aggrieved party shall have ten working days in which to file an appeal of the decision of the Chief or his designee in accordance with 30 PNC ' 184 or ' 185. Failure to do so constitutes the Chief=s ruling as final.
- 20.3 Injunctions: In addition to any of the other penalties prescribed by law, the Attorney General may bring action in the Trial Division of the Supreme Court of the Republic of Palau to enjoy violations of the provisions of labor laws, rules, or regulations of the Republic.

PART XXI. FEES (All fees are non-refundable unless otherwise provided)

- 21.1 New work permit 150.00
- 21.2 Application fee15.00
- 21.3 Change of Status Fee 500.00
- 21.4 Application for temporary permit.....500.00
- 21.5 Work permit extension125.00

21.6	Re-issue of lost work permit	75.00
21.7	Transfer fee.....	300.00
21.8	Change of Occupation	300.00
21.9	Photocopying	0.25 (page)
21.10	Rules & regulation copies	5.00

Certified to have been adopted by the Division of Labor on the 29 day of January, 2002.

_____/s/
Russell Masayos, Chief
Division of Labor

_____/s/
Maria Rehuher, Director
Bureau of Human Resources

_____/s/
Otoichi Besebes, Minister
Ministry of Commerce & Trade

Approved on the 4th day of March, 2002.

_____/s/
Tommy E. Remengesau, Jr.
President of the Republic of Palau