

AN ACT

To manage Koror's rock islands and water resources, and to repeal KSPL No. K4-65-94 (Dive Permit Legislation); KSPL No. K5-74-97 (Rock Island Use Act); KSPL No. K5-84-97 (Amendment to Rock Island Use Act); and KSPL No. K6-89-98 (Amendment to Rock Island Use Act).

THE PEOPLE OF KOROR REPRESENTED IN THE LEGISLATURE OF THE STATE OF KOROR DO ENACT AS FOLLOWS:

Section 1. Short title. This Act shall be known as the Year 2000 Rock Islands Management and Conservation Act.

Section 2. Findings. The people of Koror represented by the Sixth Koror State Legislature find that the people of Koror are the owners of the rock islands, the waters and water resources that lie within the territorial jurisdiction of Koror. As the principle attraction to tourists in the Republic of Palau, such resources must be managed to minimize adverse impacts and to ensure a healthy and productive marine environment. In order to meet these goals, it is necessary that certain restrictions and regulations be placed on their use. The Legislature further finds that the people of Koror should be compensated for the inevitable impacts that are associated with the use of the rock islands, water and water resources by assessing impact fees and using such fees for the benefit of the people of Koror.

Section 3. Definitions.

- (a) Rock Islands. This term shall refer to all islands, including its land and beaches, within the territorial jurisdiction of the state of Koror unless otherwise excepted. For purposes of this Act, "Rock Islands" does not include the islands of Malakal, Arkebesang, Ngerur Island, Koror Mainland and any other small islets or islands joined to Malakal, Arkkebesang or Koror Mainland by causeway or bridge.
- (b) Koror Mainland. Koror Mainland includes the entire island of Koror, but does not include the area known as Ngermeuangel.
- (c) Palauan Citizen. Any person who is a citizen of Palau under national law.
- (d) Resident Alien. Any person who is not a Palauan Citizen but resides in Palau.

For purposes of this Act, a person resides in Palau when they are physically present in Palau on a continuous basis for a period of more than three months in any given year, and who do not enter Palau on a "tourist" entry permit.

(e) Tourist. Any person who is not a Palauan Citizen or a Resident Alien, and who has entered and lawfully remains in Palau under a "tourist" entry permit.

(f) Tourist Activity Areas. Tourist Activity Areas are designated areas where tourists are permitted to enter upon, stay or visit, provided they are in possession of a valid use permit. The following areas, shown the attached map, are hereby designated as Tourist Activity Areas:

1. The jellyfish lake on the island of Macharchar, including the designated pathway leading to the lake;
2. The island of Babelomekang;
3. The island of Youlomekang;
4. The beach area of Ngchelobel;
5. The island of Ngeanges;
6. The island of Ngermeaus;
7. The beach area of Ngchus;
8. Ngeremdiu and the Ngeremdiu Todai Trail (German Lighthouse);
9. The islands of Ulong;
10. The beach area of Ngeroblobang; and

1. Bkulowut.

(g) Diver. Any Tourist, as defined by this Act, who dives in the waters of Koror using a self-contained breathing apparatus.

(h) Tour Operator. Any entity, whether individual, partnership, corporation, non-profit group, joint venturer, or other organization, that is engaged in the business of providing recreational activities to Tourists in Palau.

- (i) Boat Operator. Any Person who physically transports any tourist and/or any diver to go scuba diving, to enter into the Tourist Activity Area, or to engage in any other recreational activity in the waters of the State of Koror.
- (j) Valid Rock Island Use Permit. A permit, issued by Koror State or its agents, that has been originally issued to one person in their name, has not been transferred and has been fully paid in advance.
- (k) Waters of Koror. The waters of Koror include all waters within the territorial jurisdiction of Koror, with the exception of marine lakes not designated as a Tourist Activity Area. For purposes of this Act, the waters of Koror, regardless of tide fluctuations, include any land area covered with water at the time of use.
- [sic] (g) Official guests. "Official guests" means ambassadors and diplomatic corps or staff, foreign dignitaries who are in Palau on official business, foreign government officials and representatives, representatives of religious, scientific, educational, or charitable non-profit organizations, and any other official representative in Palau to meet with national and state government officials, or to participate in an official seminar or conference.

Section 4. Areas reserved for Palauan Citizens and Resident Aliens. All rock islands within the territorial boundaries of Koror not designated as Tourist Activity Areas are reserved for the exclusive use for Palauan citizens and Resident Aliens. Tourists, unless excepted under this or another Act, may not enter, visit, stay or remain on any rock island, beach or portion of a rock island that is not specifically designated herein as a Tourist Activity Area.

Unless otherwise excepted, Palauan Citizens and Resident Aliens are prohibited from accompanying or transporting any Tourist into or on any non-Tourist Activity Area.

Section 5. Areas Open to Tourists. Tourists may enter, visit, stay or remain on any area specifically designated as a Tourist Activity Area, provided they have in their possession or control a valid Rock Island use Permit, pursuant to Section 6 of this Act.

No portion of this Act shall be construed to prohibit Tourists from utilizing the waters of Koror for the uses set forth in Section 6, provided they have purchased and hold in their possession or control a valid Rock Island Use Permit, pursuant to Section 7 of this Act.

Section 6. Rock Island Use Permits; Activities Requiring Permits; Exception for Direct, Non-Stop Transit.

A. Rock Island use Permits are required to be purchased by all Tourists who engage in any of the following activities in or on the waters of Koror:

1. scuba diving;
2. any other recreational activity, including but not limited to snorkeling, swimming, fishing, boating of any kind, boat touring, water skiing, use of personal watercraft, kayaking;
3. entry into and use of any designated Tourist Activity Area.

B. This Act does not exempt a Tourist from any law requiring a Tourist to obtain a fishing permit. Tourists who engage in fishing activities must obtain both a Rock Island Use Permit and a Fishing Permit, as required under separate law.

C. Tourists, while in direct, non-stop transit through the waters of Koror, whose destination is outside the boundaries of Koror, and who do not engage in any of the above activities, are not required to obtain a Rock Island Use Permit.

D. It shall be unlawful for any Tour Operator to transport or to allow any tourist to be transported in the waters of the State of Koror, or to dive, or to enter any Tourist Activity Area, without a permit as required by this Act.

E. It shall be unlawful for any boat operator to transport or to allow any tourist to be transported in the waters of the State of Koror, or to dive, or to enter any Tourist Activity Area, without a permit as required by this Act.

Section 7. Permits; Purchase, Expiration Date and Conditions of Use. Rock Island use Permits must be purchased for a fee of \$15.00. Permits are valid for seven (7) days only and are

non-transferrable. Permits are available for purchase from the Koror State Finance Office or designated agents. Permits must be kept in the Tourist's possession or control at all times, except that a boat operator may hold or control the permit for the tourist while the tourist is engaged in recreational activities. Permits must be made available for inspection by Law Enforcement Officers upon demand.

Each permit issued to a Tourist shall set forth the name of the Tourist, the signature of the Tourist, the date the permit was issued, the expiration date of the permit, the name of the agent who sold the permit, the amount of the fee paid. It shall be unlawful to counterfeit, duplicate, forge, alter, or create a permit, and only a valid permit issued by the state of Koror shall be lawful.

Section 8. Tour Operators Selling Permits. Tour Operators may be authorized by the

Koror State governor to sell permits to their customers under the conditions set forth below: 1. Tour Operators must apply to the Governor for the right and privilege to sell permits to their customers. Applications shall be available from the Koror State

Finance Office and shall include the following: (1) the Tour Operator's name, mailing address, phone number and location of business; (2) the name and address of all persons employed by the Tour Operator who will be permitted to sell Rock Island use Permits on behalf of the Tour Operator; (3) a signed, sworn statement by an authorized agent for the Tour Operator that, in issuing the permits, the Tour Operator will collect the required fee for each person who requires a permit.

2. The Governor reserves the right to revoke a Tour Operator's privilege to sell permits if it is discovered that the Tour Operator is not issuing permits in strict accordance with this Act.

3. Tour Operators who have been authorized to sell permits must purchase, in advance, serially numbered blank permits from the Koror State Finance Office

during regularly scheduled office hours.

4. Tour Operators are required to maintain a detailed accounting with regard to the permits sold. The accounting must contain the following information: (1) name and address of Tourist; (2) serial number of permit issued to that Tourist; (3) date of issuance; (4) Koror State receipt number.
5. Tour Operators shall submit the accounting to the Koror State Finance Office for the quarterly periods as follows: January 1, through March 31; April 1 through June 30; July 1, through September 30; October 1, through December 31. Such an accounting must be received at the Koror State Finance Office on the 15th day of the month following the end of a quarter. Failure to submit a timely accounting will result in the revocation of the privilege to sell permits to customers.
6. Tour Operators are required to make Tourists aware of the prohibitions and restrictions of the year 2000 Rock Island Management and Preservation Act.
7. Tour Operators are required to post a notice at their operating site that contains the following: "NOTICE: ALL TOURISTS ARE REQUIRED TO PURCHASE A PERMIT AND PAY A USER FEE OF \$15.00 BEFORE THEY WILL BE PERMITTED TO ENJOY THE WATERS AND ISLANDS OF KOROR. THE TOUR OPERATOR POSTING THIS NOTICE IS AUTHORIZED TO SELL YOU A PERMIT. IT IS YOUR RESPONSIBILITY TO MAKE SURE YOU HAVE BEEN ISSUED A VALID PERMIT FROM THE TOUR OPERATOR. THE PERMIT MUST BE IN YOUR POSSESSION OR CONTROL AT ALL TIMES."
8. The notice shall be located in a conspicuous place, shall be of size greater than 8 and ½ by 11 inches and shall be in bold print. If the Tour Operator conducts business on a regular basis with Tourists speaking languages other than English,

the Tour Operator is also required to post the notice in that language. Failure to post the notice is a violation of this Act.

9. The Koror State Finance Office may conduct an audit of permits sold by Tour Operators at any time upon reasonable notice to the Tour Operator. Upon written request by the Koror State Finance Office or its authorized agent for an audit, a Tour Operator shall allow inspection of records pertaining to the sale of permits at the Tour Operator's regular place of business during regular working hours. It shall be a violation of this act for a Tour Operator to prohibit, refuse or cause delay in allowing the Koror State Finance Office or its authorized agent to conduct an audit and to inspect and copy pertinent records. A violation under this section exists each day that an audit cannot be conducted and every day of such conduct constitutes a separate offense. Koror State may revoke the right or privilege of a Tour Operator to sell permits if the Tour Operator has violated the provisions of this Act, if the Tour Operator delays or fails to allow an audit as called for by this Act, or if the Tour Operator does not maintain adequate or proper records to allow for a proper audit by Koror State, or if the Tour Operator cannot account for all permits purchased.

Section 9. Special Grants of Exemption. The Ibedul, or his designee, who is a member of the House of Traditional Leaders or the Governor, is authorized to provide a special grant of exemption from this Act to allow official guests who would otherwise be classified as Tourists. Palauans and Resident Aliens may also be exempted by the Ibedul, or his designee, who is a member of the House of Traditional Leaders or the Governor, for the specific purpose of transporting or accompanying such official guests to such areas. Such grant of exemption shall be in writing identifying the persons and dates of exemption, and shall be carried with the official guests at all times while in the Rock Islands.

Section 10. Penalties. Any person violating any provision of this Act shall be guilty of

a misdemeanor and shall, upon conviction of a first offense, pay a fine in the amount of \$50.00; for a second offense, the penalty shall be a \$75.00 fine and imprisonment for no more than three (3) days; and for a third and subsequent offenses, the person convicted shall be imprisoned for a period of no less than three days but not exceeding ninety (90) days, and fined \$100.00. Each violation of this Act is a separate offense and a citation may be issued for each violation.

The provisions of this Act, and the penalties provided for herein, shall apply to the person who actually violates the provision of this Act, and shall also extend to the employer, principal, superior, partner, or supervisor of such person if the violation was committed as part of a commercial operation or enterprise.

Section 11. Use of Revenues from Rock Island Use Permits; Date of Termination of Rock Island use Permit Fee. Not less than 50% of all fees generated from the Rock Island Use permits shall be used to enforce compliance with the Act; to maintain and protect the rock Islands; to maintain and protect diving sites; to acquire and install mooring buoys at appropriate locations; for monitoring purposes and for other expenses associated with the protection and preservation of Koror's rock islands. The remainder of the fees generated by this Act will be used to compensate the people of Koror for the impacts associated with this Act pursuant to the directives of the Governor. The fees generated by this Act shall be collected until human impact on Koror's rock islands and territorial waters cease to exist, but in no event, beyond a period of 10 years from the date of this Act.

Section 12. Automatic Termination of this Act. This Act will automatically terminate upon the passage of a Comprehensive Management Act for the rock islands of Koror.

Section 13. Repealer. The following Koror State Public Laws are repealed in their entirety: KSPL No. K4-65-94 (Dive Permit Legislation); KSPL No. K5-74-97 (Rock Island Use 3Ct); KSPL No. K5-84-97 (Amendment to Rock Island Use Act); and KSPL No. K6-89-98 (Amendment to Rock Island Use Act).

Section 14. Severability. If a court of competent jurisdiction determines that any

portion or portions of this Act are invalid, then such offending portion or portions shall be stricken, but the remainder of this Act shall continue in full force and effect.

Section 15. Effective date. This act shall take effect upon its approval pursuant to the operation of the Koror State Constitution.

PASSED: August 16, 2000

CERTIFIED BY:

ATTESTED TO BY:

/s/ _____
Salvador Tellames, Speaker
6th Koror State Legislature

/s/ _____
Charlyne Uong, Clerk
6th Koror State Legislature

APPROVED THIS _____ DAY OF _____, 2000.

John C. Gibbons
Governor, Koror State

APPROVED THIS 31st DAY OF August, 2000.

/s/
Ibedul Y. M. Gibbons
House of Traditional Leaders