



# **The Kiribati Gazettes**

## **Acts of 2019**

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### **Inside this issue:**

- **The Elections Act 2019**
- **Village Bank Amendment Act 1998**
- **Airport Kiribati Authority Act 2019**
- **Provident Fund Ordinance Amendment Act 2019**
- **Penal Code Amendment Act 2019**

The Kiribati Gazette is an official publication of the Government of Kiribati. Published on a monthly basis through the Communications Unit of the Office of Te Beretitenti, the Kiribati Gazette contains publications of Instruments, Acts, Notices and Proclamations (public and official announcements) from the Government of Kiribati

# **ELECTIONS ACT 2019**

## **Arrangement of Sections**

### **Part I – Preliminary**

1. Short Title
2. Application and Commencement of Act
3. Interpretations

### **Part II – Electoral Commission**

4. Duties of the Electoral Commission
5. Independence of the Electoral Commission
6. Funding of the Electoral Commission
7. Protection from Liability
8. Appointment of Electoral Officers

### **Part III – Electoral Districts, Wards and Registration**

9. Electoral Districts and return of elected representative to Maneaba ni Maungatabu
10. Wards
11. Number of members of Council to represent each Ward
12. Qualification of Registration and Voting
13. Qualification for Automatic Registration of electors
14. Automatic Registration of eligible electors
15. Registrar of electors for each Ward
16. Transfer of Registration

### **Part IV – Elections**

17. Notice of election of election for Maneaba ni Maungatabu
18. Notice of election of election for member of Council
19. Nomination of Candidates
20. Additional qualification for elected member of Maneaba ni Maungatabu
21. Validity of Nomination
22. List of Candidates to be published
23. Withdrawal of Candidature
24. Unopposed Candidate
25. Death of Candidate
26. Election Procedure

### **Part V – Election Offences**

27. Corrupt Practices



28. Penalty for False Answers
29. Offence in respect of Nomination Papers, etc
30. Infringement of Secrecy
31. Penalty for bribery, treating and Undue influence
32. Persons to be deemed guilty of bribery
33. Persons to be deemed guilty of treating
34. Bubuti or Katuua not a defense
35. Persons to be deemed guilty of undue influence
36. Penalty for Personation
37. Persons to be deemed guilty of personation
38. Incapacity entailed by Conviction for Corrupt Practices
39. Penalty for person guilty of certain Illegal Practices
40. Interference with lawful public meetings to be an illegal practice
41. Display of emblems in vicinity of place of voting prohibited
42. General Penalty
43. Saving of Offences under Cap 67
44. Questions to elected member to be determined by Court
45. Election Petitions
46. Hearing of Election Petition
47. Procedure of Election Petition

#### **Part VI – Miscellaneous**

48. Power to defer part of an election
49. Regulations
50. Repeal and Transitional Provision

**REPUBLIC OF KIRIBATI**

(No. 6 of 2019)



**AN ACT**

entitled

**ELECTIONS ACT 2019**

I assent,

Beretitenti

18/9/19

**An Act to regulate the conducts of the elections of the Members of the  
Maneaba ni Maungatabu and Local Government Council, and other  
connected purposes.**

Commencement:  
2019

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

**PART I**

**PRELIMINARY**

**Short title**

1. This Act may be cited as the Elections Act 2019.

**Application and Commencement of Act**

2. (1) This Act shall be read subject to the provisions of Part I of Chapter V of the Constitution.

(2) The Act shall come into force on the date appointed by notice by the Minister.

**Interpretation**

3. In this Act, unless the context otherwise requires —

"before an election" means the period commencing from the date the Electoral Commission issues a notice of election under section 17 until a date on which the poll is to be taken;

"candidate" means a person submitting himself, in accordance with this Act, for election as a member of the Maneaba ni Maungatabu or of a council;

"corrupt practices" means a fraudulent activity, especially an attempt to manipulate or influence an election and includes, but not limited to, bribery, personation, treating and undue influence.

"council" means a local government council established under the provisions of the Local Government Act;

"Court" means the High Court;

"during an election" means the period commencing from the date the poll is to be taken until the date when the final results in respect of a candidate or candidates for a particular ward has been declared;

"election" means an election of a member of the Maneaba ni Maungatabu or a member of a council, and includes a bye-election;

"election petition" means an application under section 60 of the Constitution or under section 44 of this Act; manipulate

"elector" means a person who is entitled to vote—

- (a) by virtue of section 64 or 118 of the Constitution at an election of a member of the Maneaba ni Maungatabu; or
- (b) by virtue of section 12 of this Act at an election of a member of a council, as the case requires;

"electoral district" means an electoral district constituted by section 9 ;

"Electoral Officer" means an Electoral Officer or Assistant Electoral Officer appointed under section 8 for the electoral district and, where the Chief Electoral Officer performs, by virtue of subsection (2), a function of an Electoral Officer, includes, in relation to the performance of that function, the Chief Electoral Officer;

"Minister" means the Minister responsible for the administration of the Act;

"mweaka, moanei or ririwete" means in accordance with Kiribati tradition and custom, the giving away or offering the maneaba gifts or its equivalent in cash of not more than \$20.00

"Population Register" refers to the register provided under the National Identity Registration Act 2018.

"register of electors" means a register compiled for a ward of an electoral district in accordance with regulations made hereunder;

"resident", in relation to an electoral district, means resident within that district for the purpose of section 64 of the Constitution;

"ward" means a ward of an electoral district constituted in accordance with section 10 .

## **Part II**

### **Electoral Commission and Electoral Officers**

#### **Duties of the Electoral Commission**

**4.** (1) Subject to the provision of the Constitution and this Act, the Electoral Commission has the duty, responsibility and authority in the registrations of electors for the election of members of the Maneaba ni Maungatabu and the conduct of elections in accordance with this Act, including responsibility with respect to the following matters:-

- (a) registration and transfer of registration of electors;
- (b) supervise the election process for members of the Maneaba ni Maungatabu;
- (c) monitoring and enforcing compliance with this Act;
- (d) ensuring that electors information and education programs are established from time to time to assist electors in the exercise of their rights and for the effective conduct of the election;
- (e) establish and maintain an impartial and independent electoral system for electors;
- (f) providing reasonable and appropriate advise on election matters to the Minister;
- (g) any other functions as conferred upon it by any other written law.

(2) Subject to any directions of the Electoral Commission under the powers conferred by section 63 (1) of the Constitution, the Chief Electoral Officer may, if he thinks it expedient to do so, perform any function under this Act of



an Electoral Officer in relation to the election of a member of the Maneaba ni Maungatabu.

### **Independence of Electoral Commission**

5. (1) The Electoral Commission is independent and is not subject to the direction or control of any person or authority in the exercise of any functions or duty under this Act.

(2) Subject to subsection (1), the Electoral Commission may consult with the Minister or any other person on any matter.

### **Funding of the Electoral Commission**

6. The Electoral Commission shall be provided with sufficient resources for a timely and effective performance of its duties and functions and shall be charge as a statutory expenditure.

### **Protection from liability**

7. The Election Commission and all officers appointed under this Act for the purpose of administering an election shall not be personally liable for the action or omission done in good faith in the exercise of the functions and duties conferred by this Act.

### **Appointment of Electoral Officers**

8. (1) There shall be a Chief Electoral Officer who shall be appointed, subject to section 99 of the Constitution, by the Minister by notice and who shall have and exercise, subject to any directions of the Electoral Commission under the powers conferred by section 63 (1) of the Constitution, the powers conferred on him or her by or under this Act.

(2) Subject to section 99 of the Constitution, the Chief Electoral Officer shall appoint an Electoral Officer for each electoral district and the Chief Electoral Officer may, in respect of any electoral district, appoint fit and proper persons to be Assistant Electoral Officers and those persons shall, subject to the directions of the Electoral Officer, have all the powers and functions of the Electoral Officer.



## **Part III**

### **Electoral District, Wards and Registration**

#### **Electoral districts and return of elected representatives to the Maneaba ni Maungatabu**

9. For the purposes of returning elected members to the Maneaba ni Maungatabu, Kiribati shall be divided into the 23 electoral districts specified in the first column of Schedule 1 and each electoral district shall consist of the area specified in relation to that electoral district in the second column of Schedule 1 and return the number of members specified in the third column of Schedule 1.

#### **Wards**

10. (1) The Chief Electoral Officer, in consultation with the Electoral Commission and in accordance with the advice of the Cabinet, shall by notice divide an electoral district into such number of wards as appear to him expedient or declare the whole of any such district to be 1 ward, and he may assign such name as may be appropriate to any ward so constituted.

(2) The Chief Electoral Officer shall take into account such views on the boundaries of wards as may be expressed to him by the inhabitants of the electoral district, and where the area proposed to be warded is within the area of authority of a council that council.

(3) The Chief Electoral Officer shall publish the description of the area of wards constituted by him under this section in such manner as appears to him to be adequate for the purposes of bringing the description of the area of each ward to the attention of its inhabitants.

#### **Number of members of councils to represent each ward**

11. For the purposes of returning members of a council, the Chief Electoral Officer shall, where a ward comprises or forms part of the area of authority of a council, specify by notice the number of members of such council who shall represent that ward.

#### **Qualifications for registration and voting**

12. (1) A person who is entitled under section 64 of the Constitution to be registered as an elector in an electoral district is entitled to be registered in respect of the ward within which he is resident at the time of registration.

(2) A person who is registered as an elector is entitled—

- (a) to vote at an election of a member of the Maneaba ni Maungatabu for the electoral district in which he is registered; and
- (b) where the ward in respect of which he is registered comprises or forms part of the area of authority of a council to vote at an election of a member of the council for that ward.

### **Qualification for automatic registration of electors**

**13.** Subject to the provision of the Constitution and this Act, a person is qualified to be automatically registered as an eligible elector if he or she has attained the age of 18 and is a Kiribati citizen.

### **Automatic Registration of eligible electors**

**14.** (1) A person who is registered in the Register for Births, or the Population Register maintained at the Office of the Registrar General of Births, Deaths and Marriages is, upon attaining the age of 18, automatically entered into the Register of eligible electors maintained by the Electoral Commission.

(2) It is the duty of the Registrar General for Births, Deaths and Marriages to advise and provide such information, data and material for the benefit of the Electoral Commission in exercising its functions under the Constitution and this Act.

(3) The Register is to be updated from time to time following consultations between the Chief Electoral Officer and the Registrar General for Births, Deaths and Marriages.

### **Register of electors for each ward**

**15.** (1) There shall be a register of electors for each ward of an electoral district which shall be compiled in accordance with the provisions of regulations made hereunder.

(2) No person may be registered in more than 1 ward whether in the same electoral district or otherwise.

(3) A person shall be entitled to be registered in respect of the ward:-

- (a) within which he resides at the time of registration, and subject to section 16(2) has been living thereat for a period of not less than one month;
- (b) is registered in the automatic register for electors; and, or

(c) has his or her name registered in the Register for birth or Population Register maintained by the Registrar General of births, deaths and marriages.

(4) The Electoral Commission may enquire into an application made for registration under subsection (3) and may endorse or reject such registration or advise on further action that may be required.

### **Transfer of registration**

**16.** (1) A registered elector may apply to the Chief Electoral Officer or the Electoral Officer for the transfer of his or her name from the register of electors for the ward in which his or her name is entered, by completing a prescribed form and paying a prescribed fee.

(2) No transfer under subsection (1) shall be made within six months of the last transfer.

## **PART IV**

### **ELECTIONS**

#### **Notice of election in elections for the Maneaba ni Maungatabu**

**17.** (1) Whenever an election of a member or members of the Maneaba ni Maungatabu becomes necessary the Electoral Commission shall issue a notice of election which notice shall specify:-

- (a) a day on which the Electoral Officer for the electoral district shall receive nominations of candidates for election, which day shall not be earlier than 7 days from the date of the notice; and
- (b) a day on which the poll is to be taken in case the election is contested, which day shall not be earlier than 28 days from the date of the notice.

(2) The Electoral Officer shall, within 5 days of the publication of a notice under subsection (1), publish in an appropriate manner in each ward of the electoral district a notice stating:-

- (a) the date, place and time at which nomination papers are to be delivered to him; and
- (b) the date on which the registers of electors for the wards in that electoral district will be closed; and



- (c) the date on which the poll is to be taken in case the election is contested; and
- (d) the number of members to be elected.

### **Notice of election in elections for members of a council**

**18.** Subject to any directions given by the Chief Electoral Officer, whenever an election of a member of a council becomes necessary the Electoral Officer for the electoral district in which the ward lies shall by notice—

- (a) appoint a convenient day or days for the holding of such election:

Provided that such day or the first of such days shall be not less than 35 days after the date of the publication of the notice as aforesaid; and

- (b) require the nominations in respect of persons submitting themselves for election to the Council to be delivered to the Electoral Officer not later than 4 p.m. on such day (being not later than 28 days before the date appointed for the election) as shall be specified; and state the date on which the register of electors will be closed.

### **Nomination of candidates**

**19.** (1) Any person submitting himself for election shall be nominated by 3 electors in the electoral district or ward, as the case may be, for which he is a candidate, and no candidate may be nominated for more than 1 electoral district or ward, as the case may be.

(2) The nomination shall be in the form set out in Schedule 2 and the nomination paper shall contain the following particulars:-

- (a) the full name, and the address and description of the candidate; and
- (b) the full names, and the addresses and descriptions of the nominators of the candidate; and
- (c) a certification by the candidate that he is willing and qualified to stand for election, and shall be signed by the candidate.

(3) The Electoral Officer for the electoral district in which the election to be held shall:-

- (a) provide nomination papers; and

- (b) at the request of the candidate, complete a nomination paper on behalf of a candidate.

(4) In addition, the Chief Electoral Officer may provide nomination papers for an election of a member of the Maneaba ni Maungatabu.

(5) No elector shall nominate more than 1 candidate, and where any nomination paper contains the name of an elector whose name appears on another nomination form as nominator of another candidate only the first nomination paper delivered in accordance with this section shall, subject to the provisions of this Act, be valid and every other nomination paper containing the elector's name shall be null and void.

(6) Each candidate shall deliver his nomination paper signed as hereinbefore provided to the Electoral Officer not later than the time specified under section 17 (2) (a) or 18 (b), as the case may be:

Provided that in the case of elections for the Maneaba ni Maungatabu nomination papers may be delivered to the Chief Electoral Officer not later than the time specified under section 17 (2) (a).

**Additional qualification for elected membership for the Maneaba ni Maungatabu.**

**20.** Pursuant to section 55 (c) of the Constitution, a person shall not be qualified to be elected as an elected member of the Maneaba ni Maungatabu:-

- (a) if he or she has been convicted whether before or after the commencement of this Act with the following offences:-
  - i) fraud cases;
  - ii) sexual offences; or
  - iii) felony cases with an imprisonment sentence of five years or more;provided, the conviction shall not be more than seven years old;
- (b) he or she is a full time paid employee of any of three arms of government;
- (c) he or she is a member of a council established under the Local Government Act.

**Validity of nomination**



**21.** (1) When any nomination paper is delivered to the Chief Electoral Officer or an Electoral Officer in accordance with section 19 (6), the candidate shall be deemed to stand nominated unless and until the Chief Electoral Officer or the Electoral Officer, as the case may be, decides that the nomination paper is invalid or proof is given to the satisfaction of the Chief Electoral Officer or the Electoral Officer, as the case may be, of the death of the candidate or the candidate withdraws in accordance with section 23.

(2) The Chief Electoral Officer or an Electoral Officer shall not be entitled to hold the nomination paper invalid except on 1 or more of the following grounds:-

- (a) that it is not in the form in Schedule 2 or that such form has not been properly completed; or
- (b) that it is null and void by virtue of section 19 (5); or
- (c) that the paper is not signed as required by law; or
- (d) that he is not satisfied that 1 or more of the electors stated on the paper to be the candidate's nominators have consented to the nomination of the candidate; or
- (e) that the nominators of the candidate or any of them are not persons whose names appear on the registers of electors in respect of 1 of the wards of the appropriate electoral district or the register of electors in respect of the appropriate ward, as the case may be; or
- (f) that the candidate already stands nominated for another electoral district or ward, as the case may be; or
- (g) that the candidate is not qualified to be a member of the Maneaba ni Maungatabu or of the council for which he is proposing to stand.

#### **List of candidates to be published**

**22.** (1) In the case of an election of a member of the Maneaba ni Maungatabu, the Electoral Officer shall within 48 hours of the expiry of the time allowed for the delivery of nomination papers under section 17 (2) (a) cause to be published at such places within the electoral district as he considers expedient, including the place of which notice has been given under section 17 (2) (a), and in such manner as he may deem appropriate, a list containing the full names and addresses and descriptions of the candidates for that electoral district and the persons by whom they were nominated.

(2) In the case of an election of a member of a council, the Electoral Officer, not later than 21 days before the date fixed for the election, shall cause to be published within the ward, in such manner as he may deem appropriate, a list containing the full names, addresses and descriptions of the candidates for that ward and the persons by whom they were nominated.

### **Withdrawal of candidature**

**23.** Any candidate may withdraw his candidature by notice in writing signed and delivered by him to the Electoral Officer not later than 4 p.m. on the day next before the day of election.

### **Unopposed candidates**

**24.** Where, as a result of withdrawals in pursuance of section 23 or otherwise, there are the same number, or less than the number, of candidates as there are members to be elected in any electoral district or ward, as the case may be, the Electoral Officer shall, at the close of the nomination period or on the last of the withdrawals, as the case may be, declare the candidate or candidates to be duly elected and shall report the names of the persons so elected to the Electoral Commission, in the case of an election of a member of the Maneaba ni Maungatabu, or the Chief Electoral Officer, in the case of an election to a council.

### **Death of candidates**

**25. (1)** Where, after the expiration of the time allowed for the delivery of nomination papers by section 17 (2) (a), but before the day of the poll, a candidate in an election of a member of the Maneaba ni Maungatabu dies, the Electoral Officer shall, upon being satisfied of the fact of death, countermand the election in respect of the electoral district for which the deceased was a candidate, and report his action to the Electoral Commission.

(2) Upon receipt of a report under subsection (1), the Electoral Commission shall in respect only of the electoral district so affected issue a notice of election in terms of section 17 (1) and the electoral procedure shall in respect of that electoral district be commenced *de novo*:

Provided that no new nomination shall be required in respect of a candidate who, at the time of the countermand of the election, had been properly nominated in accordance with section 19.

(3) Where, after the expiration of the time allowed for the delivery of nomination papers by section 18 (b) but before the day of the poll, a



candidate in an election of a member of a council dies, the Electoral Officer shall, upon being satisfied of the fact of death, countermand the election in respect of the ward for which the deceased was a candidate and shall appoint some other convenient day or days for the election and the election procedure shall commence de novo:

Provided that no new nomination shall be required in respect of a candidate, who, at the time of the countermand of the election, had been properly nominated in accordance with section 19.

### **Election procedure**

**26.** (1) The poll at an election shall be taken and votes shall be cast and counted in accordance with regulations made hereunder.

(2) An elector shall not vote for more candidates than there are members to be elected nor record more than 1 vote in favour of any candidate at any 1 election.

## **PART V**

### **ELECTION OFFENCES**

#### **Corrupt practices**

**27.** (1) No election shall be valid if any corrupt or illegal practice is committed in connection therewith by the candidate elected.

(2) Where on an election petition it is shown that corrupt or illegal practices or illegal payments committed or made in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, the Court may declare his election, if he has been elected, to be void and he shall be incapable of being elected to fill the vacancy for which the election was held.

#### **Penalty for false answer**

**28.** Any person who falsely states to an officer appointed as a presiding officer for the purposes of regulations made hereunder that he is a person whose name appears in the register of electors or that he has not already voted at the election in question, knowing the statement to be false or not believing it to be true, shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months.

## **Offences in respect of nomination papers, etc.**

**29.** (1) Any person who—

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to any person or authority to whom nomination papers are required by this Act to be delivered any nomination paper knowing the same to be forged; or
- (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper provided in accordance with regulations made hereunder; or
- (c) without due authority, supplies any ballot paper to any person; or
- (d) fraudulently takes out of any polling station any ballot paper; or
- (e) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of an election,

shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

(2) In any prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, counterfoils, and other things in use at an election, the property in such papers, boxes and things may be stated to be in the Electoral Officer at such election.

## **Infringement of secrecy**

**30.** (1) The members of the Electoral Commission, the Chief Electoral Officer and every Electoral Officer, Assistant Electoral Officer, presiding officer, polling or other assistant appointed for the purposes of regulations made hereunder, candidate and agent shall maintain and aid in maintaining the secrecy of the voting in an election and shall not communicate, except for some purpose authorised by law, the election to any person any information as to the name or number on a register of electors of any elector who has or has not applied for a ballot paper or voted.

(2) No person shall interfere with or attempt to interfere with an elector when casting his vote, or otherwise attempt to obtain information as to the candidate for whom any elector is about to vote or has voted, or communicate at any time to any person information obtained during any election as to the candidate for whom any elector is about to vote, or has voted, or as to the number on the ballot paper given to any elector:

Provided always that this subsection shall not prohibit, limit or qualify any procedure prescribed by regulations made hereunder for recording the vote



of any elector who is unable to read or is incapacitated by blindness or other disability from casting his vote himself.

(3) A person to whom subsection (1) applies in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper.

(4) Any person who acts in contravention of this section shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months.

### **Penalty for bribery, treating and undue influence**

**31.** Any person who is guilty of bribery, treating or undue influence shall be guilty of a corrupt practice and shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

### **Persons to be deemed guilty of bribery**

**32.** The following persons shall be deemed to be guilty of bribery within the meaning of this Part—

- (a) every person before or during an election who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure any money or valuable consideration to or for any elector or to or for any person on behalf of any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election; and
- (b) every person before or during an election who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure or to endeavour to procure, any office, place or employment to or for any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election; and
- (c) every person before or during an election who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person, in order to induce such person to



procure, or to endeavour to procure, the return of any person or the vote of any elector at any election; and

- (d) every person, before or during an election who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures, or engages, promises or endeavours to procure, the return of any person or the vote of any elector at any election; and
- (e) every person before or during an election who advances or pays, or causes to be paid, any money to or for the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who knowingly pays, or causes to be paid, any money to any person, in discharge or repayment of any money wholly or in part expended in bribery at any election; and
- (f) every elector, who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees to receive, or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any election;
- (g) every person who, after any election, directly or indirectly by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election;

Provided that this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bona fide* incurred at or concerning any election.

Provided further that any person making a customary offering to a Maneaba, referred to an I-Kiribati as "mweaka", "moanei" or "ririwete", with the sole intention of showing for the customs and traditions of Kiribati, shall not be guilty of bribery.

### **Persons to be deemed guilty of treating**

**33.** The following persons shall be deemed to be guilty of treating within the meaning of this Part—

- (a) every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives, provides or pays, or promises to give, provide or pay, wholly or in part, the expense of giving or providing any food, drink, entertainment, or provision to or for any person, for the

purposes of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of that person or any other person having voted or refrained from voting at such election; and

- (b) every elector who corruptly accepts or takes any such food, drink, entertainment, or provision.

#### **"Bubuti or Katuua" not a defense**

**34.** (1) Subject to the provisos in section 32 in relation to legal expenses, mweaka, moanei and ririwete the custom of bubuti or katuua shall not be a defence to any person charged with bribery or treating under section 32 and 33 of this Act.

(2) For the purposes of this section -

"bubuti" means a customary manner of asking someone for a favour whether in money or in kind which usually obliges the person asked to provide;

"katuua" means a customary method of fining a person with the payment of money or otherwise whether in a maneaba or at a function for an offence whether minor or serious against the rules of the maneaba or the function, which obliges the person fined to pay or provide.

#### **Persons to be deemed guilty of undue influence**

**35.** Every person who directly or indirectly, by himself or by any other person on his behalf, makes use, or threatens to make use, of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any injury, damage, harm or loss, upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting, at any election, or who, by abduction, duress or any fraudulent means, impedes or prevents the free use of the vote by any elector and thereby compels, induces or prevails upon any elector either to give or refrain from giving his vote at any election shall be guilty of undue influence within the meaning of this Part.

#### **Penalty for personation**

**36.** Every person who is guilty of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation, shall be guilty of a corrupt practice and liable on conviction to a fine of \$50 and to imprisonment for 3 months.

#### **Persons to be deemed guilty of personation**



**37.** Every person who at any election applies for a ballot paper in the name of another person or tenders a vote in the name of another person whether that name is the name of a person living or dead or of a fictitious person, or who, having voted once at any election, applies for a ballot paper or tenders a vote at the same election, in his own name, which he is not entitled to tender under regulations made hereunder, shall be guilty of personation within the meaning of this Part.

#### **Incapacity entailed by conviction for corrupt practice**

**38.** Every person who is convicted of a corrupt practice shall, in addition to any other punishment, be incapable, during a period of 5 years from the date of his conviction—

- (a) of being registered as an elector or of voting at any election; and
- (b) of being elected as a member of the Maneaba ni Maungatabu or a council, or, if elected before his conviction, of retaining his seat as such member.

#### **Penalty for person guilty of certain illegal practices**

**39.** Any person who—

- (a) votes, or induces, or procures any other person to vote, at any election knowing that he or such other person is prohibited or is disqualified by the Constitution, this Act or any other law for the time being in force from voting at such election; or
- (b) before or during an election knowingly publishes any false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate,
- (c) imposed traditional methods of fining a candidate (commonly known as "te katua") at any gathering before and during the election";
- (d) directly receives, uses or benefits from the proceeds of a traditional fine provided under paragraph (c);
- (e) is a candidate gives or offer any money or property in compliance with the traditional fine under paragraph (c);
- (f) is a candidate who authorized, knew or ought to know that the publication of a campaigning on his or her behalf over the radio during the polling day.

shall be guilty of an illegal practice and shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months, and shall be incapable, during a period of 3 years from the date of his conviction, of voting at any election.

Provided that if a person convicted under this section is also a candidate, his or her nomination or election result shall be null and void.

### **Interference with lawful public meeting to be an illegal practice**

**40.** Any person who at a lawful public meeting, held in connection with any election between the date of publication of a notice issued under section 17 or 18 and the date on which the result of the election is published, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice and shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months, and shall be incapable, during a period of 3 years from the date of his conviction, of voting at any election.

### **Display of emblems in vicinity of place of voting prohibited**

**41.** (1) No person other than a candidate shall, within any building where voting in an election is in progress, or on any public way within a distance of 50 meters of any entrance to such building, wear or display any card, symbol, favour or other emblem indicating support for a particular candidate or political party, and no person shall within 200 meters of any such building make any public address indicating support for a particular candidate or political party.

(2) Any person acting in contravention of this section shall be liable on conviction to a fine of \$500.

(3) For the purpose of this section, "public way" includes any highway, market place, square, street, causeway or other way which is lawfully used by the public.

### **General Penalty**

**42.** A person who commits an offense against any provisions of this Act or of the Regulations made pursuant to section 49 for which no other penalty is prescribed, shall be guilty of a misdemeanor and shall upon conviction be liable to a fine not exceeding \$200 or a term of imprisonment not exceeding 6 months, or both.

### **Saving of offences under Cap.67**

**43.** Nothing in this Part shall be construed or deemed in any way to prejudice, derogate from or affect any of the provisions of the Penal Code as to offences relating to public offices or officers.



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## **Questions as to elected members to be determined by Court**

**44.** (1) All questions which may arise from any election as to the right of any person to be or remain an elected member of the Maneaba ni Maungatabu, or, as the case may be, of a council, shall be referred to and determined by the Court—

- (a) in the case of a question relating to the Maneaba on application in accordance with section 60 of the Constitution; and
- (b) in the case of a question relating to a council on application by the Attorney General or an elector, in accordance with the procedure prescribed by sections 45 and 46 for the presentation and hearing of an election petition, and the decision of the Court on any such petition shall be final and shall not be questioned in any other proceedings.

(2) Where the question to be decided concerns the right of any person to remain a member of the Maneaba ni Maungatabu or of a council, as the case may be, the Court shall certify its decision in writing to the Chief Electoral Officer, and where the Court has decided that any person is not entitled to remain a member such person shall thereupon cease to be a member.

## **Election petitions**

**45.** (1) For the purposes of section 60 of the Constitution and of section 44, an election petition may, within 1 month after the date of publication of the result of the election, be presented to the Court—

- (a) in the case of an election of a member of the Maneaba ni Maungatabu in accordance with section 60 of the Constitution; and
- (b) in the case of an election of a member of a council by
  - (i) a person who had a right to vote at the election; or
  - (ii) a person who claims to have had a right to be returned or elected at the election; or
  - (iii) a person who claims that he was a candidate at the election.

(2). Where an election petition has been presented to court under this section, the petitioner is not required to pay security costs to the Court.



## **Hearing of election petition**

**46.** (1) Every election petition shall be heard by the Court in open court.

(2) During such hearing the Court may order—

- (a) the opening of any sealed packet of counterfoils of used ballot papers; or
- (b) the inspection of any counted ballot papers; or
- (c) the inspection and production of tendered ballot papers and the tendered votes list; or
- (d) the inspection and production of any rejected ballot papers:

Provided that in making and carrying into effect the order care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved that his vote was given and the vote has been declared by the Court to be invalid.

(3) At the conclusion of the hearing, the Court shall determine whether the member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination to the Electoral Commission, in the case of a petition relating to the Maneaba ni Maungatabu, or to the Chief Electoral Officer, in the case of a petition relating to a council, and, upon such certificate being given, such determination shall be final and shall not be questioned in any proceedings; and the election shall be confirmed, or a new election shall be held, as the case may require, in accordance with such certificate:

Provided that where the Court finds that any candidate who has been declared to be elected was not qualified or was disqualified at the time of his election, the Court shall determine the election to be void.

(4) The Court shall, as far as practicable, dispose of an election petition presented under section 45 within 3 months of presenting that petition.

## **Procedure at hearing of election petition**

**47.** Subject to this Act, and without prejudice to any power to make rules under the Constitution, the Chief Justice may from time to time make rules for regulating the practice and procedure to be observed in relation to election petitions, and subject to such rules the procedure at the hearing of an election petition shall, as near as circumstances will admit, be the same, and the Court shall have the same powers, jurisdiction, and authority, as if the Court were hearing a civil action; and witnesses may be subpoenaed and sworn in the same manner, as near as circumstances will admit, as in the

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hearing of a civil action in the Court, and shall be subject to the same penalties for perjury.

## **PART VI**

### **MISCELLANEOUS**

#### **Power to defer part of an election**

**48.** (1) Notwithstanding anything to the contrary contained in this Act, where the Electoral Commission, in the case of an election to the Maneaba ni Maungatabu, or the Chief Electoral Officer, in the case of an election to a council, is satisfied that by reason of storm or any other cause whatsoever, whether of the like nature or otherwise, it has not been or will not be possible to carry out any part of any election or to comply with any of the provisions of this Act or of the regulations made hereunder relating to time, throughout the electoral district concerned or ward as the case may be, it or he may, within 14 days of the date originally appointed for that part, by notice appoint or direct the Electoral Officer to appoint a new date for such part and for any subsequent part of the election as may be necessary.

(2) Every date appointed under subsection (1) shall be deemed to have been appointed under the appropriate provisions of Part IV or the regulations made hereunder, as the case may be, and shall afford all persons not less notice than is provided for in those provisions.

(3) In exercising its or his power under subsection (1), the Electoral Commission or the Chief Electoral Officer, as the case may be, may give such directions as it or he may consider necessary as to the deferment or suspension of the counting of votes pending receipt of the ballot boxes, papers and lists relating to any part of any election for which a new date is appointed, and for the safe custody of all ballot boxes, papers and lists already received.

(4) In subsection (1), "part", in relation to an election, includes any stage of an election and any act, matter or thing required to be done by any provision of this Act or of regulations made hereunder.

#### **Regulations**

**49.** Subject, in the case of regulations relating to elections of members of the Maneaba ni Maungatabu, to Part I of Chapter V, and to sections 118 and 131 (1), of the Constitution, the Minister, in consultation with the Electoral Commission and acting in accordance with the advice of the Cabinet, may make regulations for the election of members of the Maneaba ni Maungatabu and of councils including, without prejudice to the generality of the foregoing, regulations making provision in relation to:-



- (a) the registration of electors and the revision of registers of electors; and
- (b) the holding of elections and the method of voting and of counting of votes;
- (c) determining how the result of an election shall be ascertained and the circumstances in which a further election shall be held;
- (d) the registration of political parties for the purpose of this Act;
- (e) prescribed the amount of financial support and incidentals thereto to be used for election campaign by a candidate or a registered party.

### **Transitional provisions**

**50.** (1) The Election Ordinance (CAP. 29B) is hereby repealed.

(2) Any notice in force and regulations made under the Election Ordinance (CAP 29B) before the coming into force of this Act shall continue to have force as if they are made under this Act unless specifically repealed.

#### **SCHEDULE 1**

##### **(Section 9)**

Electoral District	Area	No of Members
1. Makin	The island of Makin	2
2. Butaritari	The island of Butaritari	2
3. Marakei	The island of Marakei	2
4. Abaiang	The island of Abaiang	3
5. Betio	The islet of Betio	3
6. Tarawa Teinainano	The area of authority of Teinainano Urban Council together with the islet of Tanea	3
7. Rural Tarawa	The part of Tarawa Atoll not included in the Electoral Districts of Betio and Tarawa Teinainano	3
8. Banaba	Banaba	1
9. Maiana	The island of Maiana	2
10. Abemama	The island of Abemama	2
11. Aranuka	The island of Aranuka	1
12. Kuria	The island of Kuria	1
13. Nonouti	The island of Nonouti	2
14. North Tabiteuea	The part of Tabiteuea Atoll extending from the northern most point to and including the islet of Nauketai.	2
15. South Tabiteuea	The part of Tabiteuea Atoll not included in the North Tabiteuea electoral District	1
16. Onotoa	The island of Onotoa	2
17. Beru	The island of Beru	2
18. Nikunau	The island of Nikunau	2



19. Tamana	The island of Tamana	1
20. Arorae	The island of Arorae	1
21. Washington	Washington Island	1
22. Fanning	Fanning island	2
23. Kiritimati	Kiritimati	3

## Schedule 2

(Section 19)

### **NOMINATION PAPER.**

Electoral District/Ward for which the candidate seeks election  
.....

Date of Election .....

1. I, the undersigned, am the candidate to whom this nomination paper refers, and I hereby state that I am willing to stand for election to the Maneaba ni Maungatabu/ ..... Council as a member for the ..... Electoral District/ as a member for the ..... ward.
2. I also hereby state that I am qualified, and not disqualified, for election to the Maneaba ..... ni Maungatabu/ ..... council in accordance with law now in force.

A) Full Name:.....

Address: .....

Description or Occupation: .....

B) Full Name: .....

Address: .....

Description or Occupation: .....

C) Full Name: .....

Address: .....

Description or Occupation: .....

Signature of Candidate .....

Date.....

Regulations under Section 38

# **ELECTIONS ACT 2019**

## **EXPLANATORY MEMORANDUM**

The Act seeks to repeal the Election Ordinance (CAP 28B).

### **Part I Preliminaries**

Section 1, 2 and 3 deals with the short title, the application and commencement of the Act, and the interpretation provisions.

### **Part II Electoral Commission and the electoral Officers.**

Section 4 deals with the duties of the Electoral Commission, while section 5 deals with the independence of the Electoral Commission. Section 6 provides for the funding of the Electoral Commission while section 7 provides protection of the Commission and its officers from civil suit. Section 8 deals with the appointment of the Electoral Officers.

### **Part III Electoral District, Wards and Registrations.**

Section 9 provides for the Electoral districts and return of elected representatives to the Maneaba ni Maungatabu. Section 10 deal with the division of electoral districts into wards. Section 11 provides for the number of Councils to represent each ward.

Section 12, provides for the qualifications for registration and voting. Section 13 provides for the qualification for automatic registration of electors, while section 14 deals with the automatic registration of eligible electors and allows the Chief Electoral Officer and the Registrar General to work closely. Section 15 deals with the register of electors for each ward, while section 16 deals with the transfer of registration.

### **Part IV Elections.**

Section 17 deals with the notice of election in elections for the Maneaba ni Maungatabu. Section 18 deals with the notice of election in elections for members of a council.

Section 19 deals with the nomination of candidates. Section 20 deals with the Additional qualification for elected membership for the Maneaba ni Maungatabu. Section 21 deals with the validity of nomination. Section 22 provides that the list of candidates to be published. Section 23 deals with the withdrawal of candidature, while section 24 deals with the unopposed candidates. Section 25 deals with the death of candidates and section 26 deals with the election procedure.



## **Part V Election Offences.**

Section 27 deals with corrupt practices, while section 28 deals with providing false answers. Section 29 deals with offences in respect of nomination papers. Section 30 deals with infringement of secrecy. Section 31 deals with penalty for bribery, treating and undue influence, while section 32 deals with persons to be deemed guilty of bribery. Section 33 deals persons to be deemed guilty of treating, section 34 provides that te bubuti and katuuu are not defences against bribery or treating. Section 35 deals with the persons to be deemed guilty of undue influence, section 36 provides for penalty for personation and section 37 deals with the persons to be deemed guilty of personation.

Section 38 deals with incapacity entailed by conviction for corrupt practice, section 39 deals with penalty for person guilty of certain illegal practices, and section 40 deals with interference with lawful public meeting to be an illegal practice. Section 41 provides that the display of emblems in vicinity of place of voting is prohibited. Section 42 deals with general penalty while section 43 deals with the saving of offences under Cap.67. Section 44 deals with questions as to elected members to be determined by Court. Section 45 deals with the election petitions, section 46 deals with the hearing of election petition and section 47 deals with the procedure at hearing of election petition.

## **Part VI Miscellaneous.**

Section 48 provides for the power to defer part of an election. Section 49 is the regulatory making powers and section 50 deals with the transitional provisions.

Hon Natan Teewe  
Minister for Justice

**CERTIFICATE OF THE CLERK OF THE MANEABA NI  
MAUNGATABU**

This printed impression of the Election Act 2019 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 2<sup>nd</sup> September 2019 and is found by me to be a true and correctly printed copy of the said Bill.

**Eni Tekanene**  
**Clerk of the Maneaba ni Maungatabu**

**CERTIFICATE OF THE SPEAKER OF THE MANEABA NI MAUNGATABU**

I certify that the above Act was on the 2<sup>nd</sup> September 2019 passed by the Maneaba ni Maungatabu on a Certificate of Urgency under section 68(3)(a) of the Constitution.

-----  
**Hon. Tebuai Uai**  
**Speaker of the Maneaba ni Maungatabu**

Published by exhibition at the Maneaba ni Maungatabu this ..... day  
of ..... 2019.

**Eni Tekanene**  
**Clerk of the Maneaba ni Maungatabu**

REPUBLIC OF KIRIBATI  
(No. 7 of 2019)



I assent,

Beretitenti  
18/9/2019

An Act  
entitled

AN ACT TO AMEND THE VILLAGE BANK ACT 1998

Commencement:  
2019

**1. Short Title**

This Act may be cited as the *Village Bank (Amendment) Act 2019*.

**2. Meaning of ‘principal Act’**

In this Act the Principal Act means the *Village Bank Act 1998*

**3. Amendment of section 2**

Section 2 is amended as follows:-

(a) by inserting a new definition before ‘Bank’ as follows-

“Auditor General” means the Auditor General appointed in accordance with section 100(2) of the Constitution.

(b) by inserting a new definition immediately after ‘Certificate of Incorporation’ as follows-  
“Internal Auditors” as provided in section 8;

(c) by inserting a new definition immediately after ‘Member’ as follows-  
“Minister” means the Minister responsible for the administration of this Act;

“Ministry” means the Ministry responsible for the administration of this Act;

**4. Amendment of section 4**

Section 4 is repealed and substituting the following;



“There must be a Registrar of Banks appointed by the Minister from among the staff of the Ministry”.

#### **5. Amendment of section 5**

Section 5 is repealed and substituting the following;

“The Registrar may in writing delegate to any public officer within the Ministry any of his or her functions and powers under this Act”.

#### **6. Insertion of section 5A**

A new section 5A is inserted immediately after section 5 as follows;-

“5A. Functions and powers of Registrar

- (1) The functions of the Registrar are as follows;
  - (a) to promote and monitor compliance with this Act, and with any orders, regulations or collective agreements made under this Act; and
  - (b) to provide information, advice, awareness to the public on matters related to compliance with this Act, regulations or collective agreement made under this Act.
- (2) The Registrar or any person authorized by him or her may, for the purpose of ascertaining whether a Bank or any officer of a Bank is complying or has complied with this Act, or of ascertaining whether the Registrar should exercise any of his rights or powers under this Act, or of detecting offences against this Act;
  - (a) require a Bank or any officer of a Bank to produce for inspection any registers, records, accounts, books, or papers that are kept by the Bank;
  - (b) inspect and make records of any such registers, records, accounts, books, or papers; and
  - (c) for the purposes of making records thereof, take possession of and remove from the premises where they are kept, for such period of time as is reasonable in the circumstances, any such registers, records, accounts, books or papers.
- (3) A person who has made an inspection under subsection (2) shall give, divulge, or communicate any records or information that he has acquired in the course of the inspection to the Registrar, the Minister and the person authorized by the Registrar to receive such records or information.

- (4) Any officer of the Bank who refuses or fails to produce for inspection to the Registrar, or to any person authorized by the Registrar for the purposes of subsection (2) any documents, that officer or person commits an offence and shall be liable on conviction to a fine not exceeding \$150”.

## **7. Amendment of section 27**

Section 27 is amended by repealing subsection 3 and substituting the following:

“A Bank which fails or refuses to comply with the Notice in accordance with subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding \$150 and the Bank shall be ordered to cease such activity”.

## **8. Amendment of Part VIII**

Part VIII is amended as follows:-

- (a) by deleting the word ‘Records’ on the title and substituting the word “Audit”, and shall read as follows:

“ACCOUNTS AND AUDIT”

- (b) by repealing section 34 and substituting the following subsections:

“34(1) The Bank shall keep full and proper accounts and other records in respect of its operations and transactions.

34(2) The Bank shall cause a statement of accounts to be prepared not later than the 31<sup>st</sup> day of March each year.

34(3) The accounts of the Bank shall be audited annually by the Internal Auditors of the Ministry.

34(4) The report of the Internal Auditors shall be sent to the Auditor General for their review and further auditing in accordance with the *Kiribati Audit Act 2017*.

34(5) The Auditor General may carry out his duties at all reasonable times without hindrance and in accordance with the *Kiribati Audit Act 2017*.

34(6) The Auditor General shall report to the Minister the results of the inspections and audit carried out under subsection 3 and 4.

34(7) Any person who willfully hindered or obstruct the Registrar or any public officer authorized by him in carrying out his purpose under this Act, commits an offence and shall be liable on conviction for a fine of \$500 and to imprisonment for 6 months.

34(8) Any officer of the Bank misapplied improperly use any Bank money, property and asset, commits an offence and shall be dealt with according to the provisions of the Penal Code and other relevant laws.

#### **9. Amendment of section 35**

Section 35 is amended in subsection 3 by deleting the words ‘not exceeding \$10 for every day during which the default continues’ and substituting the words “of \$500”.



# **THE VILLAGE BANK (AMENDMENT) ACT 2019**

## **EXPLANATORY MEMORANDUM**

This Act amends the Village Bank Act 1998, (hereinafter, the Principal Act), the amendments seek to address the issues as most banks are poorly operated and most of them are inactive, due to lack of monitoring and management. It is considered timely to amend the Principal Act in an effort to address the given issues that have emerged as well as to keep abreast with the development that have taken place over the 20 years since the principal Act has been in force.

The principal objective of this Act is to ensure that Village Banks are monitored, audited, inspected, and reported annually to the Registrar on the status of the Bank. It also provides and increases fines when the Bank failed to comply with this Act.

Section 2 amends section 2 of the Principal Act by including the new definitions of Auditor General, Internal Auditors, Minister, and Ministry.

Section 4 of the Principal Act is amended to ensure that the Registrar appointed by the Minister from among the staff of the Ministry.

Section 5 amends section 5 of the Principal Act to confine the Registrar's powers of delegation to any public officers within the Ministry.

A new section 5A is inserted after section 5 to outline functions and powers of the Registrar. The understanding is the delegation in Section 5 will be controlled and limited. It also includes penalties to a person or any officer of a Bank when they fail to comply with this section.

Section 7 amends section 27 by repealing subsection (3) to avoid ambiguities and confusion. It also provides a fix fine and a term of imprisonment for the failure to comply with this section.

In Section 8 of the amendment amends Part VIII by changing the title to Audit and Records. It also insert new sections 34(1) – (8) to provide for the internal auditors to audit every Bank account and other properties without hindrance, and to report to the Auditor General for their further auditing. It also provides penalties to any person and any officer of the Bank when fails to comply with the Act.

Section 35 of the Principal Act is amended to fix the fine to \$500 to ensure that a Bank is strictly complied with this section.

**Hon. Kobebe Taitai**  
Minister of Internal Affairs

### **LEGAL REPORT**

I hereby certify that in my opinion none of the provisions of the above Act are in conflict with the Constitution and that The Beretitenti may properly assent to the Act.

**Tetiro Maate Semilota**  
Attorney General

## **CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU**

This printed impression of the Village Bank (Amendment) Act 2019 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 2<sup>nd</sup> September 2019 and is found by me to be a true and correctly printed copy of the said Bill.

  
**Eni Tekanene**  
**Clerk of the Maneaba ni Maungatabu**

Published by exhibition at the Maneaba ni Maungatabu this ..... day  
of ..... 2019.

  
**Eni Tekanene**  
**Clerk of the Maneaba ni Maungatabu**

# **THE REPUBLIC OF KIRIBATI**

## **Arrangement of Sections**

### **PART I – PRELIMINARY MATTERS**

- 1 Short Title
- 2 Commencement
- 3 Interpretation
- 4 Act binds the Republic

### **PART II – AIRPORT AUTHORITY KIRIBATI**

- 5 Establishment of the Airport Kiribati Authority
- 6 Incorporation of the Airport Authority Kiribati Board
- 7 Custody of Airports
- 8 Board
- 9 Confidentiality
- 10 Personal Immunity

### **PART III – CHIEF EXECUTIVE OFFICE AND STAFF**

- 11 Chief Executive Officer of the Authority

### **PART IV – FUNCTIONS OF THE AIRPORT AUTHORITY KIRIBATI**

- 12 Airport Kiribati Authority functions
- 13 General powers of the Authority
- 14 Power to discontinue use of airports
- 15 Management of additional airport
- 16 Valuation of airports where use discontinued
- 17 Powers of Minister



## PART V – AIRPORT AUTHORITY DEVELOPMENT FUND

18. Development fund
19. General duty to be financially prudent
20. Borrowing powers
21. Accounts and Audit

## PART VI – PROCESS IN ACQUIRING LAND FOR AIRPORTS AND FOR CONNECTED PURPOSES

22. Process to acquire land compulsorily
23. Entering of land for survey purposes
24. Compensation for damages
25. Limitations of suits against Authority
26. Service of documents

## PART VII – MISCELLANEOUS

28. Annual Report
29. Exemption from taxation
30. Offences by bodies, corporate or un-incorporate
31. Transfer of Authorities
32. Transitional provision

## SCHEDULES

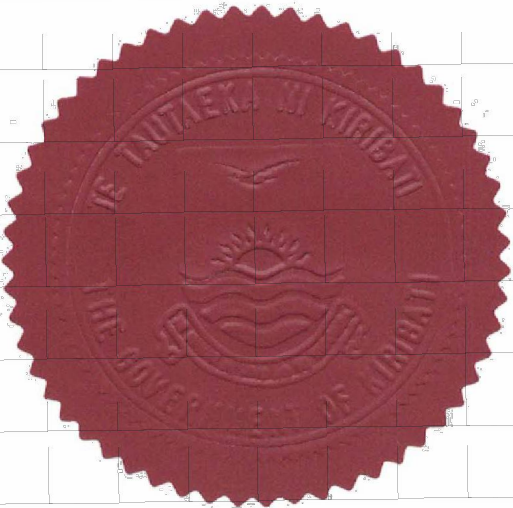
FIRST SCHEDULE: Staff Management

SECOND SCHEDULE: Board Proceedings

THE REPUBLIC OF KIRIBATI

(no. 2 of 2019)

I assent,



Beretitenti

15/4/2019

Commencement date:

2019

AN ACT

entitled

AN ACT TO PROVIDE FOR THE AIRPORT KIRIBATI AUTHORITY AND FOR  
CONNECTED PURPOSES

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Airport Authority Act 2019.

2. Commencement

This Act commences on a date appointed by the Minister by notice.

### 3. Definitions

In this Act, unless the context otherwise requires –

“air navigation services” includes facilities, directions and information furnished, issued or provided for the purpose of or in connection with -

- (a) the navigation or movement of aircraft in the air or on the ground; or
- (b) the control or movement of vehicles in any part of an airport used for the movement of aircraft other than movement on the apron;

“airport” means an area on land or water (including any buildings, installations, and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft, and which is designated an airport under section 7;

“apron” means an area in an airport on land, intended to accommodate aircraft for the purposes of loading or unloading passengers, mail or cargo, fueling, parking, or maintenance of aircraft;

“authorised person” means a person authorised in writing by the Minister to exercise the particular power referred to in this Act where those words appear;

“Authority” means the Airport Kiribati Authority referred to in the Act as “AKA”;

“Board” means the Board of Directors of the Authority;

“Chief Executive Officer” means the CEO appointed by the Authority;

“CAAK” means the Civil Aviation Authority of Kiribati;

“financial year” means the 12 months starting from January and ending December each year;

“functions” includes responsibilities, powers and duties;

“funds” Airport Kiribati Authority development fund;

“ICAO” means the International Civil Aviation Organization established by the Convention on International Civil Aviation, signed in Chicago on the 7th December 1944;

“Minister” means the Minister responsible for Civil Aviation;

“Ministry” means the Ministry responsible for Civil Aviation;

“property” includes -

- (a) money, goods, things in action, land and every description of property, whether real or personal; and
- (b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a);



"public officer" means a person in the permanent or temporary employment of the Government and State Owned Enterprises or SOE;

"restricted area" means an area of land or building under the control of the Authority to which public access is restricted; and

"vehicle" includes every type of wheeled or tracked vehicle capable of being driven, towed or pushed and includes animal drawn carts and carriages.

#### **4. Act binds the Republic**

This Act binds the Republic.

### **PART II – AIRPORT KIRIBATI AUTHORITY.**

#### **5. Establishment of the Airport Kiribati Authority (AKA)**

There is hereby established a body to be known as the Airport Kiribati Authority (in this Act referred to as ("the AKA").

#### **6. Incorporation of the Authority**

The AKA shall be a body corporate with perpetual succession and common seal and may sue or be sued in its corporate name and own, may enter into contracts, hold or dispose of property (whether movable or immovable).

#### **7. Custody of airports**

As from the appointed day, there shall be transferred to the AKA all airports maintained by the Ministry pursuant to laws governing Civil Aviation in Kiribati and the AKA shall maintain and manage those airports and any other airport provided by the Minister pursuant to those laws.

#### **8. Board**

(1) The AKA shall be governed by a Board of Directors, which shall consist of FIVE (5) members – a Chairperson, Vice Chairperson and three (3) members all appointed by the Minister.

(2) The Board of the AKA may invite a Chief Executive Officer to join Board meetings as a nonvoting member of the Board.

(3) Vacancies in the membership of the Board shall be filled in the same manner as the original appointment.

(4) Members of the Board shall be paid a sitting allowance at such rate endorsed by the Minister.

(5) Terms of office of Directors

(a) a member of the Board shall hold office for a period of four (4) years on such terms as may be specified in his letter of appointment and shall be eligible for re-appointment for one further period of four years; or

(b) if it appears to the Minister that a member of the Board should be removed on the grounds of misconduct, inability to perform the functions of his office or in the public interest, the Minister shall make a recommendation to that effect to the Chairman and if he approves such recommendation, the Minister shall declare, in writing, the office of that member vacant;

(c) any member, may resign his appointment by a letter addressed to the Minister;

(d) the supplementary provisions contained in the Second Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters mentioned therein;

(e) any member who does not attend three consecutive Board meetings, his/her appointment shall be revoked by the Minister.

(6) In the absence of the Board, the powers of the Board shall be vested in an interim board as prescribed in the second schedule of this Act.

(7) The Board may be considered absent if most members are removed, have their appointments revoked, resigned and if there is no quorum.

## **9. Confidentiality**

(1) A person to whom this section applies is not to, either directly or indirectly—

(a) make a record of, or divulge or communicate to any person, any information concerning the affairs of another person, and relating to any matter, transaction or decision under or in connection with this or any other Act, that has been acquired by him by reason of his or her membership of the Board or of his or her functions in connection with this Act;

(b) produce to any person any document relating to the affairs of another person furnished for the purposes of this Act, unless in the performance of a function under or in connection with this Act or any other Act or as required by any other legal duty.

(2) This section applies to every person who is or has been a member of the Board.

(3) A person who contravenes any of the provisions of subsection (1) commits an offence and is liable upon conviction to imprisonment not exceeding 12 months or to a fine of \$1,000 or to both such fine and imprisonment.

## **10. Personal Immunity**

No member of the Board is to be personally liable for any act done, or default made, by the Board or by a member thereof in good faith in the performance of his or her functions under this Act.



### PART III – Chief Executive Officer and Staff

#### 11. Chief Executive Officer and other staff

(1) Chief Executive Officer shall be appointed by the Board after consultation with the Minister. A Chief Executive Officer (CEO) of the AKA shall be responsible for:

- (a) the execution of the policies and the day-to-day running of the affairs of the AKA;
- (b) the day-to-day management of airports;
- (c) financial and operational matters relating to airports;
- (d) the overall safety and security of airport operations;
- (e) developing administrative and human resources development manuals for approval by the Board;
- (f) preparing regular financial and operational reports for the Board; and
- (g) implementing appropriate service standards.

(2) Subject to the approval of the Board, the CEO may employ, at such remuneration and on such terms and conditions as may be approved from time to time by the Board, such employees and engage under contract for services such professional, technical or other assistance, as the CEO considers necessary to carry out the functions of the AKA.

(3) Subject to this Act, the Board shall determine the executive, management and administrative structure of the AKA for the necessary and proper discharge of the functions of the AKA including, without limitation, the delegation of functions to directors, employees and sub-committees of the Board.

(4) The Chief Executive Officer shall also determine -

- (a) the professional qualifications and requirements of the employees of the AKA and persons under contracts for services with the AKA;
- (b) the terms and conditions of employment and contracts; and
- (c) disciplinary procedures (including a right of appeal to the Board) for employees of and for persons under contracts for services with the AKA.

(5) Subject to this Act the AKA may appoint such other persons as members of its staff as it considers necessary and may approve conditions of service for the staff.

### PART IV – Functions of the Authority

#### 12. Airport Kiribati Authority or AKA functions

(1) The AKA has the principal function of establishing, improving, maintaining, operating and managing airports including providing services and facilities which relates to the operation of any airport



(2) The functions of the AKA includes the following -

(a) to plan, develop, redevelop, construct, administer, control and manage airports, and any other property vested in it under this Act;

(b) to provide and maintain such runways, taxiways, aprons, terminals and other services and facilities, including associated lighting fixtures, as are in its opinion necessary or desirable for the efficient operation of airports or as the Minister or the Board may require;

(c) to provide and control air navigation services;

(d) to provide or make arrangements for the provision of rescue and firefighting equipment and services at airports, and to carry out regular drills and exercises and other checks of all security and safety equipment;

(e) to provide or make arrangements for the provision of meteorological services to the CAA and to users of the airports;

(f) to provide adequate facilities for the exercise of the regulatory powers of the Government, including customs, immigration, health and security checks, or by itself to exercise such regulatory powers of customs, immigration, health and security, with the concurrence of the Minister, so directs;

(g) to collect prescribed or approved dues, rents, landing and parking fees and charges;

(h) to ensure that the airports conform to the standards and recommended practices of the ICAO as adopted by Government of Kiribati and;

(i) to provide and maintain such other services and facilities as are in its opinion necessary or desirable to meet the requirements of the travelling public, service providers, employees and other persons at airports.

(3) In the exercise of its functions, the AKA may -

(a) construct, alter and maintain buildings at airports and elsewhere;

(b) purchase or otherwise acquire land or buildings;

(c) grant, on such terms and conditions as the AKA thinks fit, authority to carry on any trade or business at airports;

(d) grant leases, sub-leases or other interests or concessions in respect of land or buildings within an airport in accordance with the laws of Kiribati and on such terms and conditions and subject to the payment of rent or other consideration as the AKA may think fit;

(e) takes all necessary steps to prevent unlawful interference with navigational aids and facilities and communications systems located on airports; and

(f) carry on such activities as appear to it advantageous, necessary or desirable for or in connection with the exercise and performance of its functions.

(4) In giving effect to subsections (1) and (2) the AKA shall -

(a) have regard to the development of air transport and to efficiency, economy and safety of operation; and

(b) take adequate measures for the protection and preservation of the environment, and to prevent or deal with noise, vibration, pollution or any other disturbance attributable to aircraft used for the purpose of civil aviation.

(5) The AKA shall issue to the Chief Executive Officer, policy directions with respect to any matters for which the Chief Executive Officer has responsibility under this Act.

(6) The AKA shall, annually, prepare a report of its activities during the preceding year, and such report shall be tabled in Parliament.

### **13. General powers of the Authority**

The AKA may exercise all the powers that are provided for in this Act and any other Act, and have powers to do all acts and things which are reasonably necessary or expedient to enable it to carry out its functions, roles and responsibilities.

### **14. Power to discontinue use of airport**

The AKA shall not without the consent of the Minister discontinue the use of any airport maintained by it pursuant to this Act.

### **15. Management of additional airport**

Without prejudice to section 7, the AKA may assume the management of any airport in addition to those transferred to it under this Act.

### **16. Valuation of airport where use discontinued**

Where the use of an airport is discontinued pursuant to section 13, the AKA shall submit a valuation of the airport to the Government who shall cause compensation to be made to the AKA accordingly.

### **17. Powers of Minister**

(1) Notwithstanding any other provision of this Act, the Minister may give to the AKA directions to undertake an activity which has power to do or refrain from such an activity if the Minister considers it appropriate to give such directions;

(a) in the interest of national security; or

(b) in any matter appearing to the Minister to affect the relations of the Republic with a country or territory outside or

(c) to discharge or facilitate the discharge of an obligation binding on the Republic by its being a member of an international organisation or a party to an international agreement; or

(d) to attain or facilitate the attainment of any other object the attainment of which is in the opinion of the Minister appropriate in view of the fact that the Republic is a member of an international organisation or a party to an international agreement; or



(e) to enable the Republic become a member of an international organisation or a party to an international agreement;

(f) in order to prevent or deal with noise, vibration, pollution or other disturbance attributable to aircraft used for the purpose of civil aviation and in so far as any directions given in pursuance of this paragraph conflict with the requirements of any enactment or instrument relating to the AKA except in time of war, whether actual or imminent, or of great national emergency, those requirements shall be disregarded;

(g) to ensure the AKA provides minimum service standards; or

(h) in the national interest;

(2) The Minister may make rules and regulations deemed necessary for the better carrying into effect of this Act.

## PART V - AIRPORT KIRIBATI AUTHORITY DEVELOPMENT FUND

### 18. Development Fund

(1) There is hereby established a Fund which shall be referred to as the Airport Kiribati Authority Development Fund to support the functions and operations of the AKA.

(2) There shall be paid into this Fund:

(a) Any money appropriated by the Government of Kiribati for the purposes of this Act;

(b) fees in respect of services provided by the Authority should be approved by the Minister, including-

(i) landing fees;

(ii) parking fees;

(iii) passengers service charge (local and international);

(iv) rents;

(v) concession fees;

(vi) CIP lounge charges;

(vii) utilities;

(viii) fuel charge;

(ix) port charge;

(x) Frontier service charge;

(xi) sales of information;



(xii) contract registration fees;

(xiii) rental of warehouse;

(xiv) rental of plant and equipment;

(xv) car park charges; and

(xvi) boarding bridge charges;

(c) all other sums that may accrue to or as may be received by the Authority in the exercise of its functions and activities under this Act.

(3) The moneys comprising the fund of the AKA shall in each year be applied by it in defraying the following expenses, that is:

(a) the working and establishment expenses and expenditure on, or provision for, the maintenance and renewal of any of the undertakings of the AKA;

(b) the interest on any loan raised by the AKA;

(c) the sums required to be transferred to a sinking fund or otherwise set aside to making provision for the payment of any other borrowed money;

(d) the remuneration, fees and allowances of the members of the Board and for reimbursing members of the Board or of any committees set up by the Board and for such expenses as may be authorised by the Board in accordance with such rates as may, from time to time, be approved by the Government;

(e) the salaries, fees, remuneration, pensions, superannuation allowances and gratuities of the employees, agents and other persons acting under or for the AKA; and

(f) any other expenses connected with the discharge of the functions of the AKA under this Act or any other enactment.

(4) The AKA shall commit 30 percent of its total revenue to the Civil Aviation Authority of Kiribati annually, which form part of their Special Fund.

(5) The AKA shall submit annually to the Minister estimates of its revenue and expenditure in respect of the next following year.

#### **19. General duty to be financially prudent**

(1) It shall be the duty of the AKA so to conduct its affairs as to ensure that its revenue (including any grant made to it by the Government) is not less than sufficient to meet charges properly chargeable to revenue account, taking one year with another.

(2) It shall generally be the AKA's financial objective to recover the whole of its costs and to achieve a reasonable return on capital.

#### **20. Borrowing powers**

(1) Subject to the other provisions of this section, the AKA may, from time to time, borrow by overdraft or otherwise howsoever, such sums as it may require in the exercise of its functions under this Act.

(2) The AKA shall not, without prior approval of the Minister, borrow any sum of money whereby the amount in aggregate outstanding on any loan or loans at any time exceeds such amount as is for the time being specified by the Government.

## **21. Accounts and audit**

(1) The AKA shall keep proper accounts and proper records in relation thereto and shall prepare in respect of each financial year a statement of accounts in such form as the Minister may direct, in a form which shall conform to the best commercial standards.

(2) The AKA shall within six months after the end of each year to which the accounts relate caused its accounts to be audited by auditors appointed from the list of auditors and in accordance with guidelines outlined in the *Kiribati Audit Act of 2017*.

(3) The auditors shall, on the completion of the audit of the accounts of the AKA for each year, prepare and submit to the Board reports setting out-

(a) general observations and recommendations of the auditors on the financial affairs of the AKA for the year and on any important matters which the auditors desire to bring to the notice of the AKA; and

(b) detailed observations and recommendations of the auditors on all aspects of the operations of the AKA for that year.

(4) A person who hinders or obstructs the auditor in the carrying out of his duties under this Act, commits an offence and is liable upon conviction to a fine not exceeding \$100 or to imprisonment of 3 months, or both.

## **PART VI – Process in acquiring land for airports and for connected purposes**

### **22. Acquiring of land compulsorily**

(1) When there is any hindrance to the acquisition by the AKA of any land required for any purpose of the AKA under this Act by agreement or negotiation (including any failure by the AKA to reach agreement as to the amount to be paid in respect of the acquisition), the Minister, on the application of the AKA may take up such request to the Cabinet for their appropriate actions in compliance with the *State Acquisition of Lands 1954*.

(2) Where a declaration is made under subsection (1) of this section, the land to which the declaration relates shall be deemed to be land required for a public purpose of the Government within the meaning of the *State Acquisition of Lands 1954* for acquiring the land for the Government.

(3) Where a declaration has been made under subsection (1) of this section in respect of any land the AKA shall follow the process of declaration specified in of the *State Acquisition of Lands 1954*.

(4) The compensation if any, payable under the *State Acquisition of Lands 1954* for the acquisition of any land under this section or, payable under the appropriate law for the revocation of any rights relating to the land shall be paid by the Government.



### **23. Entering of land for survey purposes**

(1) Subject to this section, the AKA in cooperation with the Lands Department within the Ministry responsible for Lands may by their officers or agents with all necessary workmen and other staff enter from time to time on any land for the purpose of the discharge of the AKA's functions under this Act and pursuant to the *State Acquisition of Lands 1954*, and may enter upon any such land for the purpose of-

- (a) the survey and taking of levels in connection with any such survey;
- (b) the construction, placing, maintenance, examination, repair, alteration or removal of any beacon for the purposes of any survey as aforementioned;
- (c) the cutting and removal of such trees and underwood as may interfere with such surveys.

(2) The AKA shall, when practicable, serve on the occupier of any land on which it intends to enter pursuant to subsection (1) of this section, a notice which shall be in writing giving a description of the nature of the works intended to be carried out on the land.

(3) In the discharge of its functions pursuant to subsection (1) of this section, the officers, agents, workmen and servants referred to therein may remain on any such land for such reasonable time as may enable them to execute and do all such work and things as may be necessary.

(4) The AKA shall not construct, place, maintain, examine, repair, alter or remove any beacon in or upon any land, road, building, embankment, dock, harbour or pier under the control of a department of government or other public authority without prior approval of the head of the department concerned or of any such public authority.

(5) Any beacon placed on any road shall be placed so as not to hinder or interfere with free passage along such road, and the AKA shall make good any road opened or broken up for the purposes of this section.

(6) For the avoidance of doubt, it is hereby declared that the powers conferred on the AKA under this section are in addition to and not in derogation of the powers conferred on the Minister, pursuant to laws governing Civil Aviation in Kiribati.

### **24. Compensation for damages.**

(1) In the exercise of the powers conferred by section 22 of this Act, the AKA, its officers, servants and agents shall do as little damage as may be, and the AKA shall pay compensation for any damage done to any buildings, crops, and/or economic trees.

(2) In the case of dispute as to the amount of compensation payable the same shall be determined by a Court of law as the case may require, and such decision shall be final and binding.

### **25. Limitations of suits against AKA.**

(1) Notwithstanding anything in any other enactment, no suit against the AKA or a member or any employee of the AKA for any act done in pursuance or execution of any enactment or law, or of any public duties or authority, or in respect of any alleged neglect or default in



executing such enactment or law, duties or authority shall lie or be instituted in any court unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury, within twelve months next after the ceasing thereof.

(2) No suit shall commence against the AKA before the expiration of a period of three months after written notice of intention to commence the suit shall have been served upon the AKA by the intending plaintiff or his agent; and the notice shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

## **26. Service of documents**

The notice referred to in section 23 (2) of this Act and any summons, notice or other document required or authorised to be served upon the AKA under the provisions of this Act or any other law shall be served by delivering the same to the office of the CEO of the AKA, or by sending it by registered post addressed to the CEO at the principal office of the AKA.

## **PART VII - Miscellaneous**

### **27. Rules for effective discharging of functions of the AKA**

(1) The AKA may, with the approval of the Minister make rules in respect of any of its functions under this Act such rules must be consistent with rules made under laws governing Civil Aviation in Kiribati. Without prejudice to the generality of the foregoing, rules may be made-

(a) for securing the safety of aircraft, vehicles and persons using the airport and preventing danger to the public arising from the use and operation of the airport;

(b) for preventing obstruction within the airport;

(c) for regulating vehicular traffic anywhere within the airport except on roads therein to which the road traffic enactments apply, and (with that exception) for imposing speed limits on vehicles therein and for restricting or regulating the parking of vehicles or their use for any purpose or in any manner specified in the bye-laws;

(d) for prohibiting waiting by taxicabs except at standing appointed by the AKA;

(e) for prohibiting or restricting access to any part of the airport;

(f) for preserving order within the airport and preventing damage to property therein;

(g) for regulating or restricting advertising within the airport;

(h) for requiring any person, if so requested by an officer of the AKA or by a police officer, to leave the airport or any part of it;

(i) for the arrest, investigation and prosecution of persons found loitering, wandering or touting at the airports, subject only to such guidelines and clearance from the Attorney-General;

- (j) for the screening of passengers at the airports;
  - (k) prohibiting or restricting the access of members of the public or of any class of members of the public to any premises vested in, occupied by or under the control of the AKA;
  - (l) regulating the hours during which, the means whereby, the purposes for which and the conditions subject to which members of the public may have access to or egress from any such premises or portion thereof;
  - (m) ensuring the maintenance of good order and discipline amongst the members of the public at any time when upon any such premises;
  - (n) prohibiting or restricting the use of land over, underneath or near which or over waters where the Authority has any installation and for preventing the unauthorised or improper use of or wilful or negligent acts occasioning injury to any property owned, vested in, occupied by or under the control of the Authority.
- (2) All rules shall be in writing and shall come into force when approved by the Minister and sealed with the seal of the AKA unless some other later date for commencement be therein prescribed.
- (3) Rules made under this section need not be published in the gazette but the AKA shall bring them to the notice of such affected or interested persons in such manner (in addition to that prescribed in subsection 4 of this section) as it may, from time to time, determine.
- (4) A copy of such rules, when approved, shall be printed and deposited at the offices of the AKA at each airport to which the rules relate and shall at all reasonable hours be open to public inspection without payment.
- (5) Rules made under this section may provide that for the contravention of such rules there may be imposed on the conviction of any person for any such contravention a fine or imprisonment.
- (6) For the purposes of this section, members and employees of the AKA shall not be deemed to be members of the public whilst on duty or at the time they are officially working.
- (7) In this section "premises" includes lands, plants and ancillary works.

## **28. Annual report**

- (1) The AKA shall, not later than six months after the end of each year, make a report to the Minister on the performance of its functions under this Act during the preceding year.
- (2) The report for any year shall-
- (a) set out any direction given to the AKA under section 8 of this Act during the year, unless the Minister has notified the AKA that in his opinion it is against the national interest to do so; and
  - (b) includes such information relating to the plans, past and present activities of the AKA as the Minister may, from time to time direct.



(3) There shall be attached to the report for each year a copy of the statement of accounts in respect of that year and a copy of the Auditor's report thereon.

(4) The AKA shall, in addition to the information to be given under the foregoing provisions of this section, furnish in the report such returns or other information relating to the property, financial position and activities of the AKA as the Minister may, from time to time, direct.

## **29. Exemption from taxation**

The income, property and transactions of the AKA shall not be subject to any tax, rate, charge or impost under any other law except charges levied under the laws governing Civil Aviation in Kiribati.

## **30. Offences by bodies, corporate or un-incorporate**

Where an offence under this Act is committed by a body corporate or a firm or association of individuals-

- (a) every director, manager, secretary or other similar officers of the body corporate;
- (b) every partner or officer of the firm;
- (c) every person concerned in the management of the affairs of the association;
- (d) every person who was purporting to act in any such capacity aforesaid,

shall severally be guilty of the offence and liable on conviction to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance; and

- (e) every offence shall be determined at the High Court.

## **31. Transfer of Authorities**

(1) On the commencement of this Act, all the "Air Navigation services" (except at the demand of the Minister) will be part of the Authority including the functions and employees, fund, assets and liabilities for services.

(2) For the purposes of the transfer effected by subsection (1) of this section, the provisions of any contract or instrument connected therewith, shall be read and construed with such modifications (including additions, alterations, omissions or repeals) as would bring them into conformity with the general intendment of this Act.

(3) For the purpose of the transfer effected by subsection (1) of this section, the provisions of the laws governing Civil Aviation in Kiribati or any other enactment concerned with or relating to civil aviation (including subsidiary instrument) made thereunder shall be modified to the extent as would bring it into conformity with the general intendment of this Act.

(4) Without prejudice to the generality of subsection (2) of this section, the provisions of any laws governing Civil Aviation in Kiribati shall be modified accordingly.



## **32. Transitional provisions**

- (1) The Directors of the Authority holding office at the time of commencement of this Act shall continue to hold office as Director as if appointed under this Act.
- (2) The Airport Manager of the Authority and other staff holding office at the time of commencement of this Act continues to hold office as Airport Manager and existing staff or office holders as if appointed under this Act.

## **SCHEDULES**

### **FIRST SCHEDULE**

#### **Staff management**

1. On the commencement of this Act, the Authority shall retain such persons employed or staff of the former Airport Services transferred by this Act to the Authority
2. Any staff of the former Airport Services who fails within one month of the former Airport Services to report for duty at his duty post as designated by the management of the Authority shall be deemed to have abandoned his duty post.
3. (1) As from the commencement of this Act-
  - (a) the rights, interests, obligations and liabilities of the former Airport Services existing immediately before the commencement of this Act under any contract or instrument, or in law or in equity apart from contract or instrument, shall by this Act be assigned to and vested in the Authority;
  - (b) any such contract or instrument as is mentioned in sub-paragraph (a) of this paragraph, shall be of the same force and effect against or in favour of the Authority and shall be enforceable as fully and effectively as if instead of the former Airport Services the Authority had been named therein or had been a party thereto; or
  - (c) any proceeding or cause of action pending or existing, or which could have been taken by or against the former Airport Services, immediately before the commencement of this Act in respect of any rights, interest, obligation or liability of the former Airport Services may be commenced, continued or enforced or taken by or against the Authority.
- (2) Within the twelve months next after the enter in force of this Act, the Minister, if he thinks fit, may by order published in the official journal, make additional transitional and savings provisions for the better carrying out of the objectives of this Schedule.

### **SECOND SCHEDULE**

#### **Board proceedings**

1. Subject to this Act, the Board may make standing orders regulating the proceedings of the Board or any committees thereof.

2. Every meeting of the Board shall be presided over by the chairman or if the chairman is unable to attend a meeting, the Vice Chairman shall chair the meeting..

3. The quorum at a meeting of the Board shall be four.

4. Where upon any special occasion the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt that person to be a member for as many meetings as necessary and that person while so co-opted shall have all the rights and privileges of a member except that he shall not be entitled to vote, nor shall he be counted towards a quorum.

5. An interim board within the meaning of section 8 (6) of this Act shall comprise the following-

- (a) the Minister as Chairman;
- (b) the Secretary of the Ministry; and
- (c) Director of Civil Aviation

#### Committees

6. (1) Subject to its standing orders, the Board may appoint such number of standing and ad hoc committees as it thinks fit to consider and report on any matter with which the Board is concerned.

(2) Every committee appointed under sub-paragraph (1) of this paragraph shall be presided over by a member of the Board and shall be made up of such number of persons, not necessarily members of the Board, as the Board may determine in each case.

(3) The quorum of any committee set by the Board shall be as may be determined by the Board.

7. (1) Where standing orders made pursuant to paragraph 6 (1) of this Schedule provide for a committee of the Board to consist or co-opt persons who are not members of the Board the committee may advise the Board on any matter referred to it by the Board.

(2) The decision of a committee shall be of no effect until it is confirmed by the Board.

#### Miscellaneous

8. The fixing of the seal of the Authority shall be authenticated by the signature of the chairman or of some other member authorised generally or specially by the Board to act for that purpose.

9. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Authority by the Chief Executive Officer or by any other person authorised generally or specially to act for that purpose by the Board.

10. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Authority shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been signed or sealed.

11. The validity of any proceedings of the Board or of a committee thereof shall not be affected by-

- (a) any vacancy in the membership of the Board or committee thereof; or
- (b) any defect in the appointment of a member of the Board or any committee thereof; or
- (c) any reason that a person not entitled to do so took part in the proceedings.

12. Members of the Authority who are public officers, shall cease to be members of the Authority upon ceasing to hold the office entitling them to appointment to the Authority.

13. A member of the Board who has any interest in any air transport undertaking or other concern which the Authority proposes to license or with which the Authority proposes to make any contract or arrangement shall disclose to the Board the fact of such interest and the nature of the interest and such disclosure shall be recorded in the minutes of the Board, and such members shall take no part in any deliberation or decision of the Board relating to any such proposal.



## Explanatory Memorandum

The Airport Authority Act 2018 is a new legislation establish to administer, control, improve and maintain the operation and management of airports which are under the Airport Authority. Further the Authority is also responsible for maintaining and improving the services and activities done in and around airports and for properties vested in it by this Act. Previously the Airport is controlled under the Civil Aviation Act 2004 but this does not give specific powers and functions to the Airport Authority. The powers and functions of the Authority do not interfere with the powers of the Minister and Director of Civil Aviation under the Civil Aviation Act of 2004.

The Act has seven (7) parts with 32 sections and two (2) schedules. Part 1 contains the preliminary parts including the short title, commencement date and interpretation section. Section 4 makes the Act binding on the Republic.

Part II provides for the establishment of the Airport Kiribati Authority or the AKA, which is a body corporate with perpetual succession with a seal and can sue in its own name. As normal there is a board to govern the operations of the Authority. Section 7 gives the Authority the custody of all airports in Kiribati. Section 9 provides for the confidentiality issue and makes it an offence if any member past or present reveals any confidential issues. A personal immunity is provided in section 10 and protects Board members from any liability provided they perform their duty in good faith.

Part III has only section which section 11. It provides for the Appointment of the Chief Executive Office and Staff. The CEO and staff are appointed to assist the Board and the Authority to carry out functions and powers stated in the Act.

Part IV provides for the functions and powers of the Authority. The major role of the Authority is to manage, administer, improve and maintain all airports. In this part at section 17 the powers of the Minister are also listed including directions to the Authority.

Part V provides for the Authority Development Fund which is now appearing in recent Acts to provide for funds in maintaining the airport and other properties vested in it and to be financially viable for the operation of the Authority. Section 20 gives the Authority the power to borrow should the funds be insufficient. However the funds shall be audited as required under the *Kiribati Audit Act 2017*. With the concept of maintaining airports and properties feasibilities the Fund is established to ensure that airports and other properties are maintained throughout.

Part VI deals with the process in acquiring lands for airports and connected purposes. The process is similar with that provided in the *State Acquisition of Lands 1954*. It should be noted that the power to acquire land remains with the Minister responsible for Lands but the Authority is reminded that should they need more lands for Airports and other related matters they need to go through this process.

Part VII deals with miscellaneous and it provides for the annual report, exemptions from tax, offences by bodies, transfer of authorities from the previous airport services and the transitional provision.

The two Schedules deals with Staff Management and Board Proceedings.

Honourable Willie Tokataake  
Minister for Information, Communication, Transport and Tourism Development

REPUBLIC OF KIRIBATI  
(No. 5 of 2019)



I assent,

Beretitenti  
18/9/19  
Commencement:  
2019

**AN ACT**

entitled

**AN ACT TO AMEND THE PROVIDENT FUND ORDINANCE (CAP.78A)**

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

**1. Short title**

This Act may be cited as the Provident Fund Ordinance (Amendment) Act 2019.

**2. Interpretation**

In this Act, 'Ordinance' means the Provident Fund Ordinance (Cap.78A)

**3. Amendment of section 2**

Section 2 of the Ordinance is amended by replacing the definition of 'financial year' and substituting it with the following;

"financial year" means the period from the 1<sup>st</sup> day of April to 31<sup>st</sup> day of March in the next following year.



## **Explanatory Memorandum**

The 'financial year' is a provision which state a date when the account should be submitted to the Kiribati Audit Office (KAO) for auditing purposes. It is a requirement under the KPF Ordinance which Kiribati Provident Fund (KPF) must comply with. In this amendment the KPF amend the existing date by extending the time line in which to submit their account to the KAO based on the substantial important tasks and commitments that KPF staff are required to carry out between October and January each year to serve KPF members better. The amendment allows for more time to file and submit financial documents are required under the law and at the same time gives the Auditor General space to consider the account of KPF separately from each other Corporate Bodies and State Owned Enterprises (SOEs).

Hon Dr. Teuea Toautu

Ministry for Finance and Economic Development

Legal Report

I hereby certify that in my opinion none of the Provisions of the above Act are in conflict with the Constitution, and the Beretitenti may properly assent to the Act

Mrs Tetiro Maate Semilota  
Attorney General

**CERTIFICATE OF THE CLERK OF THE MANEABA NI  
MAUNGATABU**

This printed impression of the Provident Fund (Amendment) Act 2019 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 26<sup>th</sup> August 2019 and is found by me to be a true and correctly printed copy of the said Bill.

**Eni Tekanene**

**Clerk of the Maneaba ni Maungatabu**

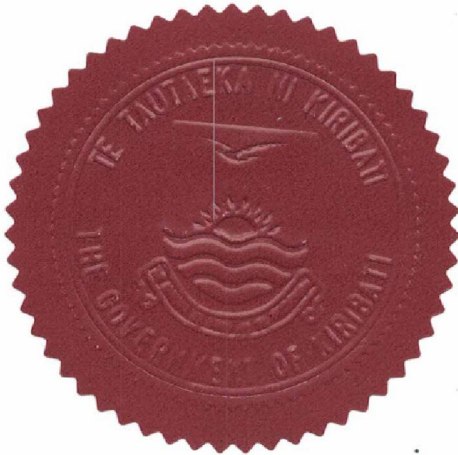
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..... 2019.

.....

**Eni Tekanene**

**Clerk of the Maneaba ni Maungatabu**

REPUBLIC OF KIRIBATI  
(No.3 of 2019)



I assent,

 Beretitenti

Commencement:

15/11/2019

**AN ACT**

entitled

**AN ACT TO AMEND THE PENAL CODE.**

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

**Short title**

1. This Act may be cited as the Penal Code (Amendment) Act 2019

**Insertion of new section 44A**

2. Section 44A is hereby inserted as follow:-

**Dicsreation to suspend sentence may not be exercises**

44A. Notwithstanding section 44(1), the Court shall not exercise its discretion to suspend sentences where a weapon is used or involved in the commission of an offence.

=====



## **Explanatory Memorandum**

The Amendment was made base on an increase in number of cases that involves the use of a weapon. Under section 44, the court has a discretion to suspend a sentence that is less than 2 years. The new section will give the court a mandate not to apply section 44 where a weapon was involved or used during the commission of an offence.

The rationale behind this is to give members of the public assurance that the law and the court will not tolerate offences being committed with the use or involvement of a weapon.

.....  
Hon Natan Teewe  
Minister for Justice

**CERTIFICATE OF THE CLERK OF THE MANEABA NI  
MAUNGATABU**

This printed impression of the Penal Code (Amendment) Act has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 4th April 2019 and is found by me to be a true and correctly printed copy of the said Bill.

**Eni Tekanene**

**Clerk of the Maneaba ni Maungatabu**

Published by exhibition at the Maneaba ni Maungatabu this 15 day of April 2019.

**Eni Tekanene**

**Clerk of the Maneaba ni Maungatabu**