



The Kiribati Gazettes 2018

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*From August to December 2018
(Part B)*

REPUBLIC OF KIRIBATI

(No. 16 of 2018)

I assent

Beretitenti

3/12 2018

AN ACT
entitled

**AN ACT TO AUTHORISE APPROPRIATION OF MONIES OUT OF THE CONSOLIDATED
FUND FOR RECURRENT EXPENDITURE FOR THE SERVICE OF THE YEAR ENDING 31
DECEMBER 2019**

Commencement

2019

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

Short Title and commencement

1. This Act may be cited as the Appropriation Act 2018 and shall come into operation on 1 January 2019.

Authorisation of issue of \$192,524,477 from the Consolidated Fund

2. The issue from the Consolidated Fund is hereby authorized of a sum of \$192,524,477 to be applied for recurrent expenditure to the service of the year ending 31 December 2019.

Appropriation

3. The sum specified in section 2 shall be appropriated for the supply of the Heads of Expenditure specified in Column 1 of the Schedule annexed to this Act in the sums respectively specified in relation thereto in Column 2 of the Schedule.

Transfer of Functions

4. Where after the commencement of this Act and before 1 January 2019 a function is transferred from one Ministry to another the authority conferred by section 2 and 3 to issue and apply monies out of the Consolidated Fund extends to the issue and application of monies in respect of that function by that other Ministry.

SCHEDULE

Column 1		Column 2
Head of Expenditure		Expenditure Authorised \$
09	Office of Te Beretitenti	2,354,610
10	Public Service Office	1,194,640
11	Judiciary	2,058,139
12	Kiribati Police Service	9,103,317
13	Public Service Commission	282,706
14	Ministry of Foreign Affairs and Immigration	3,096,968
15	Ministry of Internal Affairs	2,846,140
16	Ministry of Environment, Lands and Agricultural Development	4,020,602
17	Maneaba ni Maungatabu	3,559,350
18	Ministry of Commerce, Industry and Cooperatives	2,254,195
19	Kiribati National Audit Office	817,046
20	Office of the Attorney General	813,570
21	Ministry of Fisheries and Marine Resource Development	3,649,743
22	Ministry of Health and Medical Services	23,507,798
23	Ministry of Education	27,021,607
24	Ministry of Information, Communication, Transport and Tourism Development	4,095,812
25	Ministry of Finance and Economic Development	3,674,989
26	Ministry of Women, Youth, Sport and Social Affairs	1,895,225
27	Ministry of Infrastructure and Sustainable Energy	3,498,564
28	Ministry of Employment and Human Resources	6,083,112
29	Ministry of Line and Phoenix Island Development	4,212,171
37	Ministry of Justice	3,245,420
38	Leadership Commission	390,071
	Debt Servicing	-
	Subsidies, grants and other commitments.	33,824,395
Total		147,500,189
ADD TRANSFERS AND FINANCING		
345	Contributions to the Development Fund	45,024,288
347	Contributions to the RERF	-
Grand Total		192,524,477

THE APPROPRIATION ACT 2018

EXPLANATORY MEMORANDUM

1. This Act charges upon the Consolidated Fund a sum for which is required for recurrent expenditure for the year ending 31 December 2019.
2. The Schedule to the Act specifies the Heads of Expenditure for which the sum, in the aggregate, is appropriated and in the case of each one of the heads of expenditure, the particular amount, out of the total, appropriated to it.
3. The Heads of Expenditure specified in the Schedule are those which are contained in the Estimates for the financial year ending on 31 December 2019.
4. The Act is presented to the Maneaba ni Maungatabu in accordance with the requirements of section 109(1) and (2) of the Constitution.

Hon Dr. Teuea Toatu
Minister For Finance and Economic Development
21 November 2018

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

This printed impression of the Appropriation Act 2018 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 29th November 2018 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 29th November 2018 passed by the Maneaba ni Maungatabu on a Certificate of Urgency under section 68(3)(a) of the Constitution.

.....
**Hon. Tebuai Uaai
Speaker of the Maneaba ni Maungatabu**

Published by exhibition at the Maneaba ni Maungatabu this³ day
of^{DECEMBER}..... 2018.

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



I assent,

'Beretitenti

3/12/ 2018

AN ACT

entitled

**AN ACT TO AUTHORISE SUPPLEMENTARY APPROPRIATION OF MONIES
OUT OF THE CONSOLIDATED FUND FOR RECURRENT EXPENDITURE FOR
THE SERVICE OF THE YEAR ENDING 31 DECEMBER 2018.**

Commencement:

2018

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

Short title:

1. This Act may be cited as the Supplementary Appropriation (No.3) Act 2018.

Authorization of issue of \$18,713,164 from the Consolidated Fund

2. The issue from the Consolidated Fund is hereby authorized of a sum of **\$18,713,164** to be applied for recurrent expenditure to the service of the year ending 31 December 2018.

Appropriation

3. The sum specified in section 2 shall be appropriated for the supply of the Heads of Expenditure specified in Column 1 of Schedule 1 annexed to this Act in the sums respectively specified in relation thereto in Column 2 of Schedule 1.

SCHEDULE 1

Column 1 Head of Expenditure	Column 2 Additional Expenditure Authorized \$
02 Contribution to Development Fund	16,676,210
17 Maneaba Ni Maungatabu	220,000
<u>31 Subsidies , Grants & Other Commitments</u>	<u>1,816,954</u>
Total	18,713,164

SUPPLEMENTARY APPROPRIATION (No.3) ACT 2018

EXPLANATORY MEMORANDUM

- This Act charges upon the Consolidated Fund a sum which is required for recurrent expenditure for the year ending December 2018.
- The Act provides that this additional amount charged upon the Consolidated Fund shall be divided between and expended upon the services listed in the Schedules to the Act.
- The Act is presented to the Maneaba ni Maungatabu in accordance with the requirements of section 109(3) of the Constitution.

Hon Dr Teuea Toatu
Minister for Finance and Economic Development
November 2018

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

This printed impression of the Supplementary Appropriation (No.3) Act 2018 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 29th November 2018 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 29th November 2018 passed by the Maneaba ni Maungatabu on a Certificate of Urgency under section 68(3)(a) of the Constitution.

Hon. Tebuai Uaai
Speaker of the Maneaba ni Maungatabu

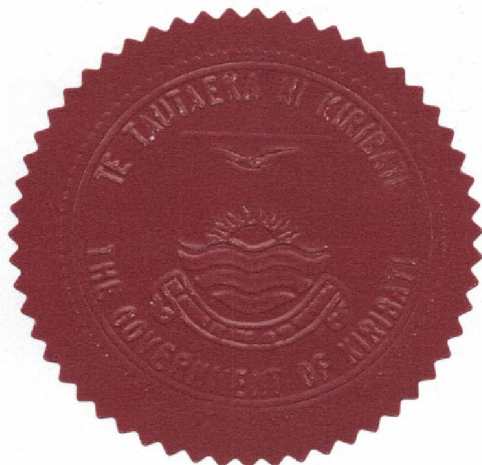
Published by exhibition at the Maneaba ni Maungatabu this³ day of
.....*DECEMBER*..... 2018.

Eni Tekanene
Clerk of the Maneaba ni Maungatabu

Republic of Kiribati

(No. of 2018)

AN ACT TO PROVIDE FOR THE KIRIBATI TOURISM AND FOR CONNECTED PURPOSES



I assent,

Beretitenti

6/11/18

Commencement
2018

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

PART I – PRELIMINARY

Short title

1. The Act may be cited as the Kiribati Tourism Act 2018.

Commencement

2. This Act shall commence on such date as the Minister may by notice appoint.

Interpretation

3. Unless the context otherwise requires:
 - a) "Accommodation Establishment" includes, without limitation, a hotel, motel, inn, hostel, guest house, or other commercial establishment offering visitor lodging and occasionally meals to the general public.

- b) "Board" means the Board of Directors of the Tourism Kiribati Authority established under section 5 of this Act.
- c) "CEO" means the Chief Executive Officer appointed by the Board to be the Secretary of the Board.
- d) "Financial year" means the 12 months starting January and ending December each year.
- e) "Fund" means the Kiribati Tourism Market Development Fund (KTMDf) established under section 11 of this Act.
- f) "TAK" means the Tourism Authority of Kiribati established under section 4 of this Act.
- g) "Minister" means the Minister responsible for tourism.
- h) "Operator" in relation to a business conducted as an accommodation establishment or a tourist enterprise, means the person –
 - (a) by whom or on whose behalf the accommodation establishment or tourist enterprise is conducted or is to be conducted, whatever the nature or extent of that person's interest in the business; and
 - (b) who for the time being receives or is entitled to receive the proceeds of the profits arising from the accommodation establishment or tourist enterprise.
- i) "Person" means the National Government, a Provincial Government or other political subdivision of the Republic or any other sovereign state, or any agency, department or ministry thereof; any public or private corporation, other occupant of property; or any individual, acting singly or as part of a group.
- j) "Record" includes any data contained in electronic form in a computer or on a computer disc, or in any hard copy format.
- k) "Secretary" means the Secretary responsible for tourism.
- l) "Tourist" means a visitor to the Republic who travels away from his or her normal place of residence for recreational, business, or other purpose.
- m) "Tourist attraction" means an operation providing a facility or service in an organized format, with guide or other organized arrangement, principally to meet tourists' interests in exchange for money or other valuable consideration including but not limited to tour excursions, scuba diving operations, and cultural centre.
- n) "Tourist enterprise" means a business of a kind falling within any sector of the tourism industry such as a tour operator, guide, travel agent, rental cars, marine activities and tourism transport services inbound tour operator, which, by virtue of a declaration under section 23(2) is required to be registered under this Act.

- o) "Tourist facility" means an operation providing a facility or service without an organised format, available for hire or other patronage by tourists in exchange for money or other valuable consideration, including but not limited to land and marine transportation used for non-scheduled or irregular tourist cruised, recreational fishing or diving trips.
- p) "Tourist feature" means any natural or man-made feature phenomenon or activity which is deemed by the TAK to be attractive to visitors, whether or not the feature is active, dormant, inoperative, commercially-operated or otherwise.
- q) "Tourism inspector" means a person appointed as tourism inspector under section 21 (1).
- r) "Tourism Registration certificate" means a registration certificate issued, or deemed to have been issued, under this Act in respect of an accommodation establishment or a tourist enterprise.

PART II –TOURISM AUTHORITY OF KIRIBATI (TAK)

Establishment

4. The TOURISM AUTHORITY OF KIRIBATI (hereinafter referred to as "the TAK") is hereby established.

Incorporation of the TAK

5. The TAK:

- (a) is a body corporate with perpetual succession;
- (b) shall have a seal;
- (c) may enter into contracts;
- (d) may acquire, hold, manage, charge, and dispose of real, personal, and mixed property;
- (e) may sue and be sued in its corporate name;
- (f) may open one or more bank accounts in its own name; and
- (g) for the purposes of its functions, has all the powers, functions, duties and responsibilities of a corporation.

Board of TAK

6. (1) The TAK shall be governed by a Board of Directors, which shall consist of FIVE (5) members – a Chairperson, Deputy Chairperson, two (2) representatives from a private sector from the tourism industry, and ONE other member appointed by the Minister.

(2) If and when the Board of TAK appoints a Chief Executive Officer, that Chief Executive shall be regarded as a Secretary to the Board and 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 of TAK shall be paid a sitting allowance at such rate endorsed by the Minister.

Rules and Procedures

7. (1) Subject to this Act and any other law, the Board shall determine its own rules to be prescribed by regulation; the quorum at and the conduct of meetings of the Board; the appointment and duties of a Secretary of the Board; and any other matters relating to the Board and the operations and procedures of the Board which it deems appropriate.

(2) The Board will be required to meet no more than 6 times during a financial year.

Chief Executive Officer and staff.

8. (1) The TAK will appoint a Chief Executive Officer who shall be a Secretary to the Board who will report on operational matters directly to the Chairperson of the Board of TAK.

(2) The Chief Executive Officer shall be responsible for the daily operations and affairs of the TAK, the administration of its budget, and for supervision of other employees of the TAK.

(3) The Chief Executive Officer may hire with approval from the Board of TAK such additional staff as may be necessary to carry out the responsibilities of the TAK.

(4) The Chief Executive Officer and other staff of the TAK shall be compensated as determined by the Board of TAK.

Objectives of the TAK.

9. The objectives of the TAK shall be to;

- (a) promote the natural, scenic, cultural, historical, and recreation attractions of Kiribati in ways that will provide substantial net economic return to the people and, to the extent feasible, equitable distribution of economic and social benefits throughout the country;
- (b) promote accommodation establishments and tourism enterprises within Kiribati;
- (c) to implement measures for ensuring that tourism services rendered and facilities provided to tourists comply with the prescribed standards;
- (d) provide registration of businesses conducted or to be conducted as accommodation establishments or tourism enterprises;
- (e) to promote and support the training of persons engaged or to be engaged in the tourism industry to achieve the best practice delivery of products and services;
- (f) to give advice and guidance to persons engaged in the tourism industry;
- (g) act as an advisory body to government on matters relating to tourism planning, development and marketing, regulations and policy;
- (h) encourage cooperation and coordination between the Government and private sectors in tourism development;
- (i) assist in implementing policies and initiatives prescribed by the Ministry responsible for Tourism;
- (j) to manage their financial resources in a way that maximises tourism promotion; and
- (k) to advise the Minister on matters relating to paragraphs (a) to (j).

Powers of the TAK

10. (1) The TAK shall have, in addition to any other power conferred by this Act and any other law, all powers, rights, privileges and immunities that are necessary or convenient for the effective performance of its functions.

(2) Without limiting the generality of subsection (1), but subject to this Act and any other law, the TAK may:

- (a) for the purpose of promoting and encouraging tourism to and within Kiribati, act in association with any person or body of persons that may be engaged, concerned or interested in promotion of tourist traffic from overseas and within Kiribati and contribute to the expenses involved in any such combination or association;

- (b) provide or assist in the provision of tourist and travel information services by itself, by any person or body whether corporate or unincorporate or in conjunction with that person or body or the Government of any other place;
- (c) engage in, or arrange for, publicity for Kiribati by any appropriate means of communication, with particular reference to its culture, heritage, tourist attractions and facilities;
- (d) induce and assist travel agents, transport operators, and other appropriate bodies, or persons engaged in any publicity medium, to encourage people in other countries to visit Kiribati;
- (e) determine charges, terms and conditions relating to work done, or services or goods or information supplied by the Board;
- (f) insure itself against loss, damage and risk;
- (g) produce, or cause to be produced, and sell or distribute magazines, pamphlets, and other publications and advertising matter relating to tourism Kiribati;
- (h) encourage, promote and organize demonstrations of local culture and entertainment in Kiribati or elsewhere in conjunction with relevant organisations;
- (i) collect information in relation to any relevant matter to publish, disseminate or supply, with or without charge, any such information or the results of, or conclusions drawn from the TAK's consideration of any such information;
- (j) identify and recommend to appropriate authorities the areas, land, or marine features, wildlife, and marine species, physical constructions, services, historical and sociological practices and any other feature, or aspect of I-Kiribati life which may be registered or otherwise declared as tourism features or attractions, and make appropriate rules and regulations as to the management and conservation of such features of attractions following upon such registration or declaration;
- (k) seek and accept gifts, loans and other contributions or indebtedness, by way of cash and assistance in kind, for the promotion of tourism in Kiribati;
- (l) work with the private sector in the promotion of Kiribati as a holiday destination;
- (m) cooperate with other appropriate government agencies or instrumentalists, purchase, own, lease, rent, sell, mortgage, pledge, or in

any other manner deal in and with property, real, personal or mixed, excluding any land of the Government, or any agency or instrumentality of a Government, as may be necessary and convenient to carry out its functions;

- (n) arrange or contract for the erection, construction, maintenance, operation, management or provision of tourist accommodations, attractions or facilities on any land acquired by the TAK; sell or lease such land either with or subject to the erection or license such tourist accommodations, attractions or facilities on such terms as the TAK may decide either in combination or otherwise with any person or group of persons as the TAK may decide;
- (o) conduct, maintain, and improve all property controlled or administered by it or established or acquired by it under this Act;
- (p) set and collect such charges as it determines from time to time for the use of any accommodations, services, works, buildings, recreation grounds, equipment, apparatus, attractions, amenities, licences or facilities, which are provided, maintained, controlled or operated by the TAK or any other person or persons whether corporate or unincorporated;
- (q) contract for the execution or provision by any person of any work of services authorized by this or any other Act to be executed or provided by the TAK in such manner and on, and subject to, such terms and conditions as the TAK thinks fit; and
- (r) subject to this Act and any other law, do anything incidental to the exercise of the foregoing powers and such other things as the TAK may from time to time determine to be necessary.

(3) The TAK shall, subject to this Act and any other law, not compete with or duplicate the working of any other private company, authority or agency of the Government, or any public corporation or statutory authority, except with the approval of Cabinet,

(4) The TAK shall cause to prepare and publish a code of conduct and ethics to be prescribed by regulations for any sector of the tourism industry relating to providing or supplying facilities or services to tourists.

(5) Without limiting subsection (4) a code of conduct may –

- (a) set minimum standards for conducting any business or carrying on any activity for which registration is required under this Act;
- (b) impose reasonable obligations for protecting the safety of tourists, including the giving of advice on apparent risks involved in using facilities or equipment or participating in activities provided by the operator;

- (c) establish principles that encourage and facilitate fair dealings between operators of registered businesses and tourists or other businesses or entities with which tourists come, or are likely to come, in contact through the agency of the operator; and
- (d) set disciplinary measures or penalties for not complying with this code of conduct.

PART III – KIRIBATI TOURISM MARKETING AND DEVELOPMENT FUND

The Kiribati Tourism Marketing and Development Fund

11. (1) There is hereby established a Fund which shall be referred to as the Kiribati Tourism Marketing and Development Fund

(2) There shall be paid into this Fund:

- (a) any money appropriated by the Government of Kiribati for the purposes of this Act;
- (b) any money or any property, real or personal, including gifts, loans, grants, advances, contributions and any other assistance which may be received granted, given, bequeathed, devised, endowed, or in any manner received from any source for the purposes of this Act;
- (c) any money received pursuant to any levies, or any other fee authorized by this Act or regulations promulgated hereunder; and
- (d) any other money or property payable under any other law into the Fund.

Kiribati Tourism Marketing and Development Fund Levy

12. (1) The Board, may impose by regulation a tourism levy for the benefit of the Fund referred to in section 11 (1)-

- (a) in respect of those businesses holding tourism and accommodation permits
- (b) to be paid by operators of accommodation establishments;
- (c) to be charged to, and collected from, tourists by operators of accommodation establishments and remitted to the Board; or
- (d) to be levied and paid in any other way as may be prescribed.

(2) Regulations imposing a levy may provide for –

- (a) the rate and manner of calculation of the levy;
- (b) the obligations of operators of registered business in relation to the payment, collection or remittance of the levy;
- (c) the manner in which and times at which the tourism levy must be paid, collected or remitted;
- (d) the circumstances in which any person or class of persons may be exempted, in whole or in part, from payment of the levy;
- (e) the refunding of the amount, in whole or in part, of the levy paid;
- (f) the records to be kept and the returns to be made in relation to the payment, collection or remittance of the levy; and
- (g) the making of an assessment of the amount payable in respect of the levy where a person liable to submit a return of the tourist levy fails to submit the return or makes a return which is incomplete or false.

(3) Accommodation Establishments may charge different levies in respect of different classes of accommodation establishments or categories of tourist enterprises.

(4) Where the levy is imposed on the basis that it must be charged to and collected from tourists by operators of accommodation establishments and any operator fails to charge or collect the levy, such operator is nevertheless liable to pay to the Board the amount which should have been charged and collected and remitted to the TAK in respect of the levy.

Levy is debt due to the TAK

13. Any amount due by the tourism operator of a registered accommodation business, in respect of the levy, including an assessment of the levy, and any penalty surcharge or interest is a debt due to the Board and may be recovered by the TAK in a court of law.

Offences in relation to the levy

14. (1) A person commits an offence who –

- (a) fails to file a return in respect of the tourist levy when required to do so by this Act;
- (b) wilfully or negligently makes, or permits to be made an entry in any record or return required to be kept or made in respect of the tourist levy by this Act which is false or which the person does not know to be correct;

- (c) being the operator of a registered business that fails to ensure that any information required to be entered in any record or return in respect of the tourist marketing levy is correctly so entered at the time when it is required to be entered;
- (d) with intent to deceive, destroys, alters, mutilates or disposes of any record required to be kept in respect of the tourist levy under this Act.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding \$5,000 and 2 years imprisonment

(3) The Board may if it has grounds to believe that a person has contravened this section the board may, with the consent of the Attorney General and as an alternative to prosecution give a warning to first time offenders only.

Purpose and Administration of the Funds

15. (1) Money may be paid out of the Fund for the purpose of promoting, marketing and developing tourism in Kiribati and for all other purposes of the TAK as provided for in this Act and regulations adopted hereunder.

(2) Where any money is borrowed or any advance, grant, contribution, gift or other assistance is received for a specific purpose or subject to any condition, it may be expended or used only for that purpose or subject to those conditions.

(3) No money shall be withdrawn from the Fund except with authority and signature of the Chairperson and two other Board members, who shall satisfy themselves that the withdrawal is made in accordance with this Act and any other applicable law.

(4) A delegation to expend money out of the Fund is given to the Chief Executive Officer and the Chairperson or two other Board members designated by the Board.

(5) The Chief Executive Officer shall submit a budget of revenues and expenditures with respect to each financial year, and any proposed revisions to that budget, to the Board for review and approval.

Accounts and records

16. (1) The TAK shall open a bank account or accounts with a bank approved by the Board for such purpose.

(2) The Chief Executive Officer shall maintain proper accounts and records, to the satisfaction of the Board, of:

- (a) the Kiribati Tourism Marketing and Development Fund;
- (b) the disposition of money out of the Fund; and
- (c) the property and financial transactions of the TAK generally.

(3) The accounts and records referred to in subsections (1) and (2) of this section shall be audited by the Auditor-General or any recognized accountancy firm.

Annual Report

17. (1) Within 3 months after the end of each financial year, the Board must submit to the Auditor General an annual report containing –

- (a) its' audited balance sheet;
- (b) its' audited income statement;
- (c) an audited cash flow statement;
- (d) a note to describe assets and liabilities;
- (e) a report on the affairs and activities of the Board during the preceding financial year; and
- (f) any other information as the Minister may specify in writing.

(2) The Minister must lay copies of the TAK annual report to Parliament as soon as possible and in accordance with Parliament Rules of Procedure.

(3) A copy of the report of the TAK referred to in subsection (1)(e) must always be kept in a safe and secure location for the life of the TAK.

(4) Notwithstanding any of the other provisions of this section, the Minister may at any time, require the TAK to submit to him a report in such manner and for such matters as he thinks necessary.

Register of Clients

18. Every proprietor of an accommodation establishment, tourist enterprise or tourist facility shall keep a register in which shall be entered correct particulars of accommodation or services provided by the traveller or tourist including the total turnover.

Return of Payments

19. (1) Subject to subsection (2), every proprietor of an accommodation establishment, tourist enterprise or tourist facility and tourists enterprises shall pay to the TAK before the 10th Day of each

month the amount of levy payable in respect of the previous month and the same time the proprietor of that accommodation establishment and tourist enterprises shall sign and send to the CEO of the TAK a return setting out the total amount of the turnover of the accommodation establishment and tourism enterprise during the period in respect of which the tax paid relates.

(2) The Board may require in any particular case that the levy be paid in less than one month and in such case the levy shall be paid within 14 days after the expiry of such lesser periods.

(3) Any proprietor of an accommodation establishment in respect of which levy is not paid to the TAK in accordance with subsection (1) shall be liable to pay to the TAK, in addition to the levy a penalty of 30 percent of the unpaid levy which shall be payable accordingly.

(4) Any persons who being the proprietor of an accommodation establishment;

(a) fails to comply with subsection (1); or

(b) fails to make or cause to be made a return within the period specified in subsection (1); or

(c) furnishes or causes to be furnished a return which is false or incorrect in any material erased,

commits an offence and is liable to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding 12 months or to both.

Power of administration and management of Levy

20. (1) The Board shall undertake the administration of this levy, shall account for the levy hereunder and shall be responsible for the due care and management of all such levies and other matters incidental thereto under this Act;

(2) The Board may approve-

(a) the form of the register to be kept under section 18 of this Act;

(b) the form of the return to be furnished under section 19(1) of this Act; or

(c) require the proprietor of a tourism accommodation, tourist enterprise or tourist facility to keep adequate records and accounts relating to the turnover of the enterprise.

(3) The Board may designate representatives to –

- (a) enter any accommodation, tourist enterprise or tourist facility establishment at any reasonable time and inspect the records of the accommodation, tourist enterprise or tourist facility establishment and tourism enterprise that relate to its turnover or to the payment of tax under this act; or
- (b) require the proprietor of the accommodation, tourist enterprise or tourist facility establishment or tourism enterprise at any time to produce any books or records of the accommodation, tourist enterprise or tourist facility establishment or tourism enterprise that relate to its turnover or payment of tax under this Act.

(4) Any person who, being the proprietor of an accommodation, tourist enterprise or tourist facility fails to comply with any requirement made under subsections (2) and (3) of this section commits an offence and is liable to a fine not exceeding \$5,000 and 2 years imprisonment or to both.

(5) The designated representative of the Board shall assess the proprietor of a tourism accommodation, tourist enterprise or tourist facility who commits a breach of section 19(4)(b) and (c) of the Act.

(6) Any proprietor who disputes an assessment under section 20(5) of this Act may, by notice in writing to the Board appeal against such assessment. The notice shall –

- (a) state the grounds of the appeal supported by documents, if any; and
- (b) be lodged with the Chief Executive Officer within 60 days of service of the notice of assessment where the proprietor -
 - i. has given a valid notice of appeal to an assessment; and
 - ii. does not agree with the Board as to the amendment of the assessment.

Any proprietor may within 30 days of the Board making such an amendment, lodge his or her appeal to the High Court.

PART IV - TOURISM INSPECTORS

Appointment of tourism inspectors

21. (1) The Board–

- (a) must appoint such of its employees as it considers necessary; and

- (b) may appoint any person with whom the Board has entered into a contract, or any individual employed by such a person;

as tourism inspectors to exercise the powers and perform the functions conferred upon or assigned to a tourism inspector under this Act.

(2) The Chairperson must issue to each tourism inspector a certificate of appointment which must stipulate –

- (a) the term of appointment of the tourism inspector; and
- (b) any limitations on the powers or functions of tourism inspectors that attaches to the appointment of the tourism inspector.

(3) A tourism inspector who seeks to exercise any power or performing any function under this Act in relation to any person must produce his or her appointment certificate for inspection when so requested by that person.

Powers of tourism inspectors

22. (1) Subject to subsection (2) and (3), a tourism inspector may—

- (a) at any reasonable time enter and inspect the premises –
 - (i) of any accommodation establishment, tourist enterprise or tourist facility in respect of which an application for registration or grading has been made in terms of this Act in order to make a report to the Board of TAK in relation to the application; or
 - (ii) of any accommodation establishment, tourist enterprise or tourist facility registered or graded under this Act to determine whether the requirements for registration or the specific grading are being maintained, or the provisions of this Act otherwise are being complied with in respect of the tourism accommodation establishment, tourist enterprise or tourist facility
- (b) at any reasonable time enter and inspect the premises, equipment, vehicles, books or records –
 - (i) of a tourist enterprise for the purpose of making a report to the Board of TAK in relation to an application for registration of that tourist enterprise; or
 - (ii) of a tourist enterprise registered under this Act to determine whether the requirements for registration are being maintained, or the provisions of this Act otherwise are being complied with, in respect of the tourist enterprise;

(c) at any reasonable time, without a warrant, enter and inspect any premises in or on which the tourism inspector on reasonable grounds believes an accommodation establishment, tourist enterprise or tourist facility or tourist enterprise is being conducted without being registered in accordance with the requirements of this Act, and, after having informed the person for the time being in charge or control of the premises of the purpose of his or her visit, make such examination and enquiry as the tourism inspector may consider necessary;

(d) while being in or on premises referred to in paragraph (a), (b) or (c), question any person who is at the time in charge or control of the premises, or an agent or employee of that person, with regard to any matter which the tourism inspector considers necessary for the purpose of exercising a power or performing a duty under this Act or for determining whether the provisions of this Act are being or have been complied with;

(e) require from any person referred to in paragraph (d) to produce any book, record or other document which is or has been in or on the premises or in the possession of such person and which the tourism inspector considers relevant for the purposes of the investigation which the tourism inspector is carrying out;

(f) search for, examine or make extracts from or copies of, any book, record or other document referred to in paragraph (e) and require an explanation of any entry therein from a person referred to in paragraph (d); (g) without warrant seize any such book, record or other document which the tourism inspector on reasonable grounds believes may afford evidence of a contravention of this Act;

(2) In exercising the powers conferred by subsection (1) a tourism inspector must not enter any premises or part of premises being used as a private home, unless the entry and search of the premises are authorised by a warrant issued by a judge of the High Court or a magistrate who has jurisdiction in the area in which the premises in question are situated.

(3) A warrant for entry and search of a private home may be issued under subsection (2) if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that -

(a) a provision of this Act is being contravened in that home; or

(b) or that a book, record or any other document or other article required for inspection is in that home.

(4) A person in charge or control of premises entered by a tourism inspector for a purpose mentioned in subsection (1) must provide such reasonable facilities and assistance as the tourism inspector may require for performing a function under this Act, including providing access to any computer on the premises and rendering assistance to the tourism inspectors to search any data contained in such computer and, on request of the inspector, provide any data contained in that computer in printed form to the inspector.

(5) Any person who, without just cause –

- (a) refuses to permit a tourism inspector to enter any premises referred to in subsection (1) or to conduct an examination or inquiry in terms of that subsection;
- (b) fails or refuses to produce any book, record or other document which a tourism inspector requires to be produced under subsection (1);
- (c) fails or refuses to explain any entry in a book, record or other document which a tourism inspector requires him or her to explain under subsection (1);
- (d) fails or refuses to provide a tourism inspector with reasonable facilities and assistance required by the tourism inspectors as contemplated in subsection (5);
- (e) hinders, obstructs or interfere with a tourism inspector in the exercise of his or her powers under of subsection (1);
- (f) knowingly furnishes false or misleading information to a tourism inspector; or
- (g) removes or tampers with any book, record or other document seized by a tourism inspector under subsection (1),

commits an offence and is liable to a fine not exceeding \$2000 or to imprisonment for a term not exceeding 1 year or both.

PART V – TOURISM PERMIT

Tourism Permit requirement for Accommodation Establishments, Tourism Enterprises and Restaurants

23. (1) The TAK will be responsible for developing prescribed requirements for the Tourism Permit of tourism accommodation, tourism enterprises and restaurants.

(2) The TAK, may declare any premises, place or thing which, in the TAK opinion, affords an amenity, tourists facility, service or goods to tourists, to be –

- (a) a class of accommodation establishment; and
- (b) tour business;

that is required to have a Tourism Permit under this Act with effect from a date specified in the declaration.

(3) No person must conduct any business which falls within the class of accommodation establishment or the category of tour operator designated in the notice unless the person holds in respect of that business –

- (a) a Tourism Permit issued, or deemed to have been issued, under this Act; or
- (b) a certificate of a conditional Tourism Permit issued under this Act.

(4) A person who contravenes subsection (3) commits an offence and is liable on conviction to be sentenced to a fine not exceeding \$20,000 or to imprisonment for a period not exceeding 6 months or to both.

Application for Tourism Permit

24. (1) An application for a Tourism Permit of an accommodation establishment, tourist enterprise, tourist facility and restaurant must –

- (a) be submitted in writing to the CEO in an approved form;
- (b) be accompanied by the plans, documents and other information or particulars as may be prescribed; and
- (c) be accompanied by the prescribed registration application fee which is not refundable.

(2) The Board must call for an inspection to be carried out and a report to be prepared by a tourism industry assessment officer on whether the prescribed requirements – as established by the Board for registration are complied with in respect of the business to which the application relates.

(3) The Board, when considering an application may -

- (a) by notice in writing given to the applicant, require the applicant to give the Board further information or documents relevant to the application within a stated reasonable period of at least 14 days; and
- (b) cause any investigation to be carried out in regard to any matter relevant for deciding the application, including investigation by a person appointed by the Board to advise the Board on any matter in relation to which that person has special knowledge or skill.

Conditional Tourism Permit

25. (1) If, upon consideration of an application for registration of an accommodation establishment, tourist enterprise, tourist facility and restaurant the Board is of the opinion that although the prescribed minimum requirements for registration are not fully complied with, such non-compliance is of a nature which will not substantially affect the standard of the service proposed to be provided, the Board may grant a conditional Tourism Permit in respect of the business concerned for a period, not exceeding 6 months, as the Board may determine to allow the

applicant to conduct the business during completion of the work in compliance with those requirements.

(2) Upon application made to the Board, at least 60 days before expiry of the period for which a conditional registration has been granted, the Board may –

- (a) if it is satisfied that the applicant has shown good cause, grant an extension of the conditional registration for a further period, not exceeding 6 months, as the Board may determine; or
- (b) refuse to grant an extension of the conditional Tourism Permit.

(3) If the Board grants a conditional Tourism Permit, or extension of a conditional Tourism Permit, it must, upon payment of the prescribed fee, issue to the applicant a conditional Tourism Permit certificate to conduct business.

(4) The Board may at any time, by written notice, revoke or suspend a conditional Tourism Permit if the Board, in the interest of tourists, considers that the facilities offered or equipment used by the accommodation establishment or tourist enterprise adversely affects the quality of service provided to tourists or is seen to affect the safety of the tourists or if the business continually fails to provide requirements in a timely manner to the Kiribati Tourism Marketing and Development Fund.

Notification of alteration of premises

26. (1) An operator of a registered business who intends to carry out work for any addition or alteration valued more than \$5,000 to the premises where the business is conducted and which is likely to affect-

- (a) any service provided to tourists; or
- (b) the Tourism Permit or grading of the accommodation establishment or tourist enterprise or restaurant as the case may be; must notify the CEO in writing thereof, at least 30 days before commencing the work, and provide the Board with such plans, documents or other information in relation to the addition or alteration as may be prescribed or as the Board may require, and pay the prescribed fee to the Board;
- (c) must also comply with any other laws that require permit to be sought before addition or alteration of any premises.

(3) Within 30 days after completion of the work carried out, or such longer period as the Board may allow, the operator of the registered business must notify the Board of the completion.

(4) The Board may cause an inspection to be carried out and a report to be prepared by a Tourism Assessment Officer on whether the prescribed requirements for registration are still being complied with in respect of the registered business after completion of the work in question.

PART VI - REGISTRATION CERTIFICATES AND LICENCES

Issue of registration certificate or registration disk

27. (1) If the Board grants an application for registration or renewal of a registration, it may, upon payment of the prescribed registration issue fee or the renewal issue fee, as the case may be, issue to the operator of the accommodation establishment or tourist enterprise, a registration certificate or registration disk for land and marine transport used by either the accommodation establishment or tourism enterprise.

(2) A registration certificate or registration disk must be in the approved form and must contain -

- (a) the name of the operator, as the case may be;
- (b) the date on which the registration, or the renewal of the registration, starts;
- (c) conditions of the registration, if any; and
- (d) any other particulars as may be prescribed.

Duration of validity of registration

28. (1) A registration certificate is valid for the period as prescribed.

(2) In the event of the transfer by way of lease, sale or otherwise of an accommodation establishment or tourist enterprise, the registration issued in respect of the accommodation establishment or tourist enterprise, terminates on the date of the transfer.

Display of registration certificate

29. A registration certificate issued under this Act must –

- (a) be displayed conspicuously at a prominent place where the business or activity authorised by the registration certificate is conducted or carried on; or
- (b) if the business or activity authorised by the registration certificate is not conducted or carried on upon or from fixed premises, the certificate must be produced for inspection on request by a tourism inspector.

Display of Registration disk and other information

30. (1) Any registration disk issued by the Board in respect of any passenger vehicle or marine transport used for or in connection with any activity or service provided by the operator of a registered business for the conveyance of clients must be displayed by affixing it, in an upright position, to the inside of the windscreen of the vehicle or at any other place in or on the vehicle or marine transport in a way that the registration disk is reasonably protected from the elements and the print on the face of the disk is clearly visible from outside the vehicle or marine transport.

(2) A person must not operate a vehicle or marine transport for a purpose mentioned in subsection (1) –

(a) unless the registration disk issued by the Board in respect of that vehicle or marine transport is displayed in accordance with that subsection; or

(b) if the registration disk –

(i) is obscure or illegible; or

(ii) has ceased to be valid for any reason as prescribed.

(3) Every vehicle used in Kiribati for the conveyance of clients in or in connection with the conduct of business or the carrying on of any activity authorised by a registration certificate under this Act must bear clear permanent identification of the business of the operator on both sides of the body of the vehicle.

(4) A person who contravenes subsection (2) or (3) commits an offence and is liable to a fine not exceeding \$3000 or to imprisonment for a term not exceeding 12 months or to both

Replacement of registration certificate or disk

31. (1) The operator of a registered business may apply to the Board for the replacement of a damaged, destroyed, lost or stolen registration certificate or registration disk.

(2) An application for replacement must –

(a) be made in the approved form; and

(b) be accompanied by the prescribed fee.

(3) The TAK must grant the application if the Board is satisfied the certificate or registration disk has been damaged in a way that requires its replacement or has been destroyed, lost or stolen.

(4) If the TAK grants the application it must issue another registration certificate or registration disk to the applicant to replace the damaged, destroyed, lost or stolen certificate or disk.

(5) If the Board refuses to grant the application, it must give the operator notice of the decision and the reasons for the decision within 14 days after the decision is made.

(6) If a lost registration certificate or registration disk that has been replaced is found the operator must forthwith return that certificate, licence or disk to the Board.

(7) A person who knowingly retains, or has in his or her possession, a certificate or disk which has been replaced commits an offence and is liable to a fine not exceeding \$500 or to imprisonment for a term not exceeding 3 months or to both.

Forged certificate or disk

32. A person who –

- (a) forges any registration certificate or registration disk or any other document or thing issued by the Board; or
- (b) displays or is in possession of any forged registration certificate, registration disk or any other document or thing knowing it to be false, commits an offence and is liable to a fine not exceeding \$5000 or to imprisonment for a term not exceeding 2 years or to both.

Application for renewal of registration

33. (1) An application for the renewal of a registration must be made to the TAK at least 90 days before the registration, grading or licence expires.

(2) An application for renewal must –

- (a) be submitted to the Chairperson in the approved form;
- (b) be accompanied by the documents and information as prescribed; and
- (c) be accompanied by the prescribed renewal fee.

(3) The TAK may, by notice in writing given to the applicant, require the applicant to give the Board further information or documents relevant to the application within a stated reasonable period of at least 14 days.

Register to be kept and open for inspection

34. (1) The Board must cause a register to be kept in respect of registration certificates issued under this Act.

(2) The register must –

- (a) be kept in the form and in a way the Board determines, including electronic form;
- (b) contain the details as prescribed or as the Board determines.

(3) The register must be open for inspection at the office of the TAK.

(4) The TAK and its staff must permit members of the public to inspect the register free of charge during normal office hours.

Cancellation of registration or licence

35. (1) Subject to section 34, the Board may cancel a registration if –

- (a) the Board, upon receipt of an inspection report by a tourism inspector, considers that the prescribed requirements for granting registration are no longer complied with in respect of the accommodation establishment or tourist enterprise or regulated activity in question;
- (b) information given in connection with the application for the grant of the registration was, at the time the information was given, false in a material particular;
- (c) the operator of the registered business –
 - (i) without lawful excuse, has contravened a provision of this Act or a condition of the registration or a code of conduct applicable to the operator;
 - (ii) has failed to pay any fees or levies payable to the Board under this Act within 30 days after it became due; and
- (d) is convicted of an offence under this Act or any other offence involving fraud or dishonesty.

(2) The Board must cancel the registration of a registered business if the operator of the business surrenders the registration by written notice given to the Board.

(3) A person who uses the registration certificate or licence which has been cancelled or suspended or its renewal is refused under this Act commits an offence and is liable to a fine not exceeding \$1000 or to imprisonment for a term not exceeding 6 months or both.

Procedure for cancellation of registration

36. (1) The Board must not cancel a registration under section 35 (1) unless the Board has given written notice to the operator of the business concerned –

- (a) stating that the Board proposes to cancel the registration;
- (b) specifying the reasons for the cancellation; and
- (c) inviting the operator to submit to the Board, within 30 days after the operator receives the notice, reasons why the Board should not cancel the registration.

(2) If the Board, after expiry of the period allowed for the submission of reasons, and having considered any submissions made, continues to hold the opinion that the registration should be cancelled, the Board may, by written notice to the operator, cancel the registration.

Notice of cancellation of a registration must specify –

- (a) the reasons for the cancellation;

- (b) the procedures for appeal under section 44.

Suspension of registration

37. (1) If the Board considers that cancellation of a registration is not appropriate, it may, by written notice given to the operator, suspend the registration for a period it may determine.

(2) Notice of suspension given under subsection (1) must –

- (a) state any corrective measures the Board requires to be taken by the operator in connection with the registered business before reinstatement of the registration will be considered by the Board;
- (b) specify a reasonable period within which the Board requires the corrective measures to be completed.

(3) If the Board is satisfied that the operator –

- (a) has duly complied with the requirements of the notice given under subsection (2), the Board must reinstate the registration without payment of any fee; or
- (b) has not complied with the direction, the Board may, by written notice to the operator, cancel the registration.

(4) While the suspension of a registration is in force the business to which the registration certificate relates is deemed not to be registered under this Act.

PART VII - GRADING AND OTHER STANDARD AND QUALITY ASSURANCE SCHEMES

Establishing grading and classification scheme for accommodation establishments

38. (1) The TAK, with a view to the maintenance or enhancement of the standards and quality of facilities and services provided or rendered by operators of accommodation establishments, may –

- (a) establish a grading and classification scheme in respect of accommodation establishments for participation by operators of accommodation establishments on a basis of voluntary membership; and

(b) from time to time amend the provisions of the scheme.

(2) A scheme under subsection (1) may include provisions for –

- (a) the classification of accommodation establishments into different classes;
- (b) the requirements and conditions for the acquisition and continuation of membership of the scheme, including the payment of fees, and the suspension or termination of membership;

- (c) the intervals at which application for renewal of a grading must be made and the procedures for and fees payable for an application for renewal; and
- (d) differentiation between accommodation establishments or classes of accommodation establishment on any basis the Board considers fit, including the nature, extent, availability and quality of facilities provided or services rendered.

Application for grading of accommodation establishment

39. (1) The operator of an accommodation establishment registered under this Act, being of a class for which grading requirements are prescribed under a scheme, may apply to the Board for the grading of the accommodation establishment.

(2) An application for grading follow the same process in section 33(2) (a) to (c)

(3) The TAK, with due regard to the requirements prescribed under the scheme, and after consideration of an inspection report given by a tourism inspector in respect of the premises, must –

- (a) grant the application, and allocate the appropriate grading in respect of the accommodation establishment; or
- (b) refuse to grant the application.

(4) If the TAK refuses to grant an application for grading, the TAK must give the applicant written notice of its decision and the reasons for the decision within 14 days after the decision is made.

(5) The operator of an accommodation establishment graded under a scheme must be issued, upon payment of the prescribed fee, with a certificate of grading in accordance with the grading allocated by the Board of TAK.

(6) While being a member under a scheme, the operator of the accommodation establishment must use and display the prescribed certificate in respect of the establishment in the prescribed manner.

(7) A certificate referred to in subsection (6) must include a depiction of a star or a number of stars which indicate the grading awarded in respect of the accommodation establishment concerned under scheme.

Regrading of accommodation establishment

40. (1) The operator of an accommodation establishment graded under a scheme may apply to the Board for the allocation of a higher grading.

(2) An application for regrading to a higher grade follow the same requirements stated in section 33(2).

(3) If the operator of an accommodation establishment graded under a scheme shall be notified by the TAK in writing –

- (a) to remove the grading allocated in respect of the accommodation establishment, the TAK must give effect to that notification;
- (b) to regrade the accommodation establishment to a lower grade indicated in the notification, the TAK must regrade the accommodation establishment to the lower grade as indicated if the Board is satisfied that the requirements prescribed under the scheme for the lower grade are complied with in respect of the accommodation establishment.

(4) If an accommodation establishment no longer complies with the requirements prescribed under a scheme for the grading allocated in respect of it, the Board, after having given the operator of the accommodation establishment reasonable opportunity of making representations in the matter, may –

- (a) re-grade the accommodation establishment to a lower grade; or
- (b) revoke the grading allocated in respect of it.

(5) Upon the regrading of an accommodation establishment under this section, the TAK must, subject to such conditions as may be prescribed, issue in respect of the accommodation establishment the appropriate certificate of grading and certificate in accordance with the re-grading.

Establishment of other standards and quality assurance schemes for prescribed sectors of tourism industry

41. (1) The TAK, with a view to the maintenance or enhancement of standards and quality of services provided or rendered by persons engaged in any specified sector of the tourism industry, other than accommodation establishments, may establish any standards and quality assurance scheme for participation by such persons in respect of their businesses on a basis of voluntary membership.

(2) A scheme established under subsection (1) may include provisions for -

- (a) the classification of businesses falling within the relevant sector of the tourism industry to which the scheme relates into different classes;
- (b) the requirements and conditions for the acquisition and continuation of membership of the scheme and the suspension or termination of membership;
- (c) the intervals at which application for renewal of a rating under the scheme must be made and the procedures for and fees payable for an application for renewal; and

- (d) differentiation between business or classes of businesses falling within the relevant sector of the tourism industry on any basis the Board considers fit, including the nature, extent, availability and quality of facilities provided or services rendered.

Application for renewal of grading

42. (1) An application for the renewal of grading must be made to the Board at least 90 days before the grading expires.

(2) An application for renewal follows the same steps provided in section 33(2).

(3) The Board may, by notice in writing given to the applicant, require the applicant to give the Board further information or documents relevant to the application within a stated reasonable period of at least 14 days.

Decision on application for Tourism Permit, registration, renewal of registration and grading

43. (1) The Board, upon considering an application for a Tourism Permit, registration, renewal of registration and renewal of a grading, must –

- (a) grant the application; or
- (b) refuse to grant the application.

(2) If the Board refuses to grant the application for such applications, it must –

- (a) give the applicant written notice of its decision and the reasons for the decision within 14 days after the decision is made; and
- (b) refund the renewal fee paid by the applicant, if any.

Appeals

44. (1) A person who is aggrieved by a decision of the Board with respect to-

- (a) a refusal to grant an application for the issue or renewal of a registration, grading;
- (b) a condition attached to a registration or grading;
- (c) the suspension or cancellation of a registration, or the suspension or cancellation of a grading, or a regrading to a lower grade; or
- (d) a determination made on review of a decision of a board, either in relation to the its finding or the sanction imposed by it,

may appeal against that decision to the Minister for determination.

(2) Within 14 days after the appeal has been lodged the Chairperson must notify the Minister in writing thereof.

(3) Within 60 days of being notified of the appeal, the Minister must appoint the appeal tribunal, which must consist of a chairperson, being a legal practitioner with at least 5 years standing, and one or more persons with expert knowledge or experience in the field of the tourism industry relevant to the subject matter of the appeal.

(4) The appeal tribunal may make any order it thinks fit, confirming, varying or setting aside the decision appealed against or referring the matter back for reconsideration b the Board in accordance with directions given by the appeal tribunal.

(5) If the appeal tribunal make an order-

(a) setting aside the decision or action appealed against, the prescribed fee paid for the appeal must be refunded to the appellant; or

(b) varying the decision or action appealed against, such portion of that prescribed fee as the appeal board determines must be refunded to the appellant.

Special power of audit of accounting records relating to the Kiribati Tourism Marketing and Development Fund

45. (1) Without prejudice to the powers conferred on a tourism inspector by section 22, a tourism inspector may in particular, for the purposes of ensuring that the requirements of this Act with respect to the payment, collection or remittance of the Kiribati Marketing and Development Fund Levy are being complied, at any reasonable time inspect, audit or examine –

(a) the records of an operator of a registered business which that person is required by or under this Act to keep for accounting for and making returns in relation to the payment, collection or remittance of the KTMDF Levy under this Act;

(b) any document of that operator, or of any other person, that relates or may relate -

(i) to the information that is or should be in the records required to be kept by the operator; or

(ii) to any amount payable under this Act by or to operator.

(2) For the purpose of an inspection, audit or examination under subsection (1) a tourism inspector may require from the operator of the registered business concerned to produce all records or documents that are or may be relevant to the inspection, audit or examination.

PART VIII - MISCELLANEOUS

Exemption from taxation

46. The income, property and transactions of the TAK shall not be subject to any tax, rate, charge or impost under any other law.

Legal proceedings.

47. The TAK may sue and be sued in its corporate name, provided that it shall be subject to suit only in the manner provided for suits against the Government of Kiribati; and provided further that any liability incurred by the TAK shall not be a liability of the Government or any subdivision thereof. The Chairperson or the Chief Executive Officer, or their designees, may accept service of process on behalf of the TAK. The Attorney General or appointed attorneys shall represent the TAK in legal proceedings to the extent that such representation does not represent an actual or potential conflict of interest.

Secrecy

48. (1) A member or a tourism inspector or any other person who, in the performance of his or her functions under this Act, acquires any information in relation to the business or affairs of any accommodation establishment or any tourist enterprise or any persons who applied for a licence in terms of this Act must not disclose such information to any person, except;

(a) for the purpose of the performance of his or her functions under this Act; or

(b) when required to do so by any court of law or under any law.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding \$5000 and 2 years imprisonment or both.

Rules and regulations.

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

TOURISM ACT 2018

EXPLANATORY MEMORANDUM

The Tourism Act 2018 is a new and comprehensive piece of legislation that provides for the legal framework for the development of the Tourism Industry in the Republic of Kiribati for present and future generations. The Act consists of eight (8) Parts beginning with Part I under the heading Preliminary that contains short title of the Act, commencement date and definition section. Part II provides for the establishment of the Kiribati Tourism Authority, Part III establishes the Kiribati Tourism Marketing and Development Fund, Part IV deals with Tourism Inspectors, Part V deals with Tourism Permit, Part VI deals with Registration Certificates and Licences and Part VII deals with Grading and other standard and quality assurance schemes and Part VIII provides for Miscellaneous.

PART I

PRELIMINARY

Part I of the Act provides for Preliminary that contains (a) short title in section 1, (b) the commencement date in section 2 and the Interpretation section in section 3 that provides for the definition of terms utilized in the Act.

PART II

TOURISM AUTHORITY (TAK)

Part II of the Act provides for the establishment of the Tourism Authority of Kiribati in section 4. As a recognized legal entity TAK can own properties and can sue and be sued in its' corporate name and has the powers, functions, duties and responsibilities of a corporation. Section 5 provides for its' incorporation, the composition of its' Board of Directors, office holders, rules and procedures chief executive officer and staff are stated in section 6 to 9. And finally the objectives of the TAK and its' powers are stipulated in section 10 to 11.

PART III

KIRIBATI TOURISM MARKETING AND DEVELOPMENT FUND

Section 12 establishes the *Kiribati Tourism Marketing Development Fund* (KT MDF) which will be the main financing facility of the TAK. Government and donor funds, loans, grants, levies and any other money payable under Law shall be deposited into the KT MDF.

Section 13 establishes the *Kiribati Tourism Marketing Development Fund Levy* imposed by the TAK Board for the benefit of the KTDMF. This levy is to be passed on to the tourist in the final product or service pricing and remitted to the KTDMF. Failure to collect this levy by the tourism operator will result in the operator having to pay this levy themselves.

The succeeding sections explain further on how the Levy will be dealt with, in that, it is a debt due to TAK section 14, offences relating to Levy is provided in section 15, and the Purpose and Administration of the Fund is explained in section 16. The rest of the sections in that, from section 17 to section 20 provides for an organized accounting system for the levy, in that Accounts and Records, Annual Report, Register of Clients and Return of Payments. Finally section 21 provides for power of administration and management of Levy.

PART IV

TOURISM INSPECTORS

This part consists of only two sections section 22 and 23. Section 22 provides for the "Appointment of Tourism Inspectors." The Board of TAK must appoint a TAK employee or may contract any individual person(s) who sees fit to carry out the role/tasks of tourism inspector(s). In addition, section 23 provides for the "Powers of Tourism Inspectors," when conducting authorized inspections and investigations that must be consistent with the criminal procedure code as evident in the need to apply for a search warrant to authorize entry and inspection of a private home.

PART V

TOURISM PERMIT

This part explains the requirements of a *Tourism Permit*, an accommodation establishment and a tourist enterprise operator must apply for or comply with under section 24, including the specific penalty for any person operating a tourism business without obtaining Tourism Permit prior establishment under this Act.

An application for a Tourism permit is stated under section 25 and a conditional Tourism permit is explained in section 26, while notification of alteration of premises is provided in section 27.

PART VI

REGISTRATION CERTIFICATE AND LICENCE

This part illustrates that an application for registration of certificate and licenses by any accommodation establishment, tourist enterprises in relation to land and marine transport to be utilized by such accommodation establishment and tourist enterprises, cannot be granted or renewed unless prescribed fees are being paid.

Upon approval, the registration disk must contain the name of the operator, the date in which the registration or renewal starts, conditions of the registration and other particulars where needed. Section 28 to 32 provides for issuance of such certificate and licences, the duration of its validity, how the certificate and Board's disk are to be displayed on a vehicle and their replacement if they are lost. Section 33 deals with forgery of certificate and disk, while section 34 explains an application for a renewal of registration. Section 35 establishes a register of certificates and licences to be kept and open for inspection. The remaining sections, section 36 to 38 deals with cancellation of registration of certificate and the procedure for cancellation and finally the suspension of registration.

PART VII

GRADING AND OTHER STANDARD AND QUALITY ASSURANCE SCHEMES

This part deals with section 39 to 46. The sections set out the establishment of the grading and classification standards by the TAK to be adhered to by the accommodation establishments and the tour enterprises.

Section 39 establishes such grading and classification scheme. An application for grading accommodation establishment and regrading of such accommodation establishment are stated in section 40 to 41, while section 42 provides for establishment of other standards and quality assurance schemes for prescribed sectors of tourism industry. Section 43 provides for any operator of such accommodation establishment and tour enterprises to apply for a renewal of grading and section 44 provides for the decision of the board on such application for Tourism Permit, registration and renewal of registration and grading. Section 45 provides an avenue for any person aggrieved of such decision of the board to appeal to the Minister and finally section 46 provides for special power of audit of accounting records, relating to the Kiribati Tourism Marketing and Development Fund.

PART VIII

MISCELLANEOUS

This part consists of four (4) headings namely, (a) Exemption from taxation (b) Legal proceedings (c) Secrecy or confidentiality and finally rules and regulations.

Section 47 exempts TAK's income, property and transactions received from taxation, rate charge or any customs under any other law. Section 48, explains TAK as a legal entity that can own property can sue and be sued. That such suit must be pursued in the manner provided for suits against the Republic and any liability of TAK arising from such suits shall not be liability of the Republic or its subdivision. Furthermore, this part also explains how the Attorney General may act on behalf of TAK if a conflict of interest arises. Section 49 prohibits a member or tourism inspector or any

other person from disclosing information he or she acquire while performing his or her duty under the Act, unless such disclosure is authorized under the Act only. Finally section 50 provides for the Ministers power to make rules and regulations for the better carrying into effect of this Act.

Honorable Mr. Willie Tokataake

Minister for Ministry of Information, Communication, Transport and Tourism
Development

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

This printed impression of the Kiribati Tourism Act 2018 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 23rd August 2018 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 2018.

.....
Eni Tekanene

Clerk of the Maneaba ni Maungatabu

NATIONAL IDENTITY REGISTRATION BILL 2018

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REPUBLIC OF KIRIBATI

(No. 13.. 2018)



I assent,

Beretitenti

24/12/ 2018

An Act

entitled

An Act to provide for the compilation and maintenance of a population register in respect of the population of the Republic; for the issue of personal identity cards and certain certificates to persons whose particulars are included in the population register; and for matters concerned therewith.

Commencement:

2018

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 National Identity Registration Act.

Interpretation

2. In this Act, unless the context otherwise indicates -

"abode of residence" means the place where he or she normally lives and to which he or she returns regularly after any period of temporary absence. It includes but not limited to village and ward within the area of authority of an island council;

"certificate" means a birth, death or marriage certificate referred to in section 14;

"document" includes e-copies, hard copies, film and other means that makes the document accessible;

"finger prints" includes palm prints;

"personal identity card" means the personal identity card referred to in section 15;

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

"population register" means the population register referred to in section 6;

"Registrar General" means the Registrar General appointed under the Birth, Death and Marriages Ordinance Cap.5;

"surname" includes family name or father's name or any other name that a person commonly use as second name other than given name for identification.

Utilising of information for purposes of Act

3. The information contained in the Register under the Birth, Death & Marriages Ordinance which existed immediately prior to the commencement of this Act, as well as the information contained in any document kept by the Registrar General under any law, which are appropriate for the compilation and maintenance of the population register referred to in section 6(1), shall be utilised by the Registrar General for that purpose.

Application of Act

4. This Act shall apply to all persons who are Kiribati citizens, and persons who are lawfully and permanently resident in the Kiribati but not to foreigners working in foreign missions.

Assignment of functions to official

5. (1) The Registrar General may -

a). delegate any power granted to him or her by or under this Act, except this power of delegation and section 7, to an officer in the public service; and

b). grant authority that a duty assigned to him or her in terms of this Act may be performed by such an officer.

(2) A power so delegated and a duty so authorised shall be exercised or performed, subject to the directions of the Registrar General, who may at any time withdraw such delegation or authority.

(3) A delegation under subsection (1)(a) does not prevent the Registrar General from exercising the power in question himself or herself.

Part II

Population Register

Compilation and maintenance of population register

6. (1) The Registrar General shall, as soon as practicable after the commencement of this Act, compile and thereafter maintain a population register for the Republic.

(2) There shall be a separate population register for foreigners and for Kiribati citizens and residing Kiribati descend

(3) The particulars required for the compilation and maintenance of the population register shall be obtained by the Registrar General.

Access to population register

7. Subject to the provisions of this Act, no person shall have access to the population register and no person shall record or amend any particulars in such register unless specifically authorised thereto by the Registrar General.

Assignment of identity numbers

8. (1) The Registrar General shall assign an identity number to every person whose particulars are included in the population register in terms of section 9.

(2) An identity number shall be compiled in a manner out of figures and shall, in addition to a serial, index and control number, consist of a reproduction, in figure codes, of the following particulars, and no other particulars whatsoever, of the person to whom it has been assigned, namely -

- a). date of birth and gender;
- b). whether or not he or she is a Kiribati citizen;
- c). whether or not he or she is a Kiribati descent;
- d). resident permit including Visa number in the case of foreigners;
- e). abode of resident.

Particulars to be included in population register

9. There shall in respect of any person referred to in section 4, be included in the population register the following relevant particulars available to the Registrar General, namely -

- a). his or her identity number referred to in section 8;
- b). his or her surname, full forenames, gender, date of birth and the place or country where he or she was born;
- c). if he or she has attained the age of 18 years, his or her abode of residence, electoral ward and island and his or her postal address;
- d). if he or she is a Kiribati citizen but is not a citizen by birth or descent, the date of his or her naturalization, adoption or registration as such a citizen, and, if he or she is an alien but has received a resident permit and was not born in the Republic, the date of his or her entry into the Republic, and the country of which he or she is a citizen;

- e). the particulars of his or her marriage contained in the relevant marriage register or other documents relating to the contracting of his or her marriage, and such other particulars concerning his or her marital status as may be furnished to the Registrar General;
- f). a recent photograph of himself or herself, if he or she has attained the age of 18 years old;
- g). his or her fingerprints, if he or she has attained the age of 18 years;
- h). particulars concerning passports and travel documents granted to him or her;
- i). after his or her death, the required particulars furnished when notice of his or her death was given, and on permanent departure from the Republic, the date of such departure, and particulars concerning the cancellation in the prescribed manner of his or her personal identity card or that card with the exception of the prescribed section thereof (if any);

and any other particulars determined by the Minister by notice as particulars which, subject to the conditions, exceptions or exemptions (if any) mentioned in the notice, shall be included in the register.

Photographs

10. Every person referred to in section 4 who has attained the age of 18 years shall at his or her own expense furnish two prescribed copies of a recent photograph of himself or herself to the Registrar General when -

- a). he or she applies for an personal identity card in terms of section 16; or
- b). his or her personal identity card is required to be replaced by an improved one; or
- c). if replacing a lost or damaged identification card.

Fingerprints

11. Every person referred to in section 4 who has attained the age of 18 years shall, when he or she applies for a personal identity card, have his or her fingerprints taken so that it may be included in the population register.

Change of abode of residence

12.(1) Every person whose name is included in the population register shall, if he or she attained the age of 18 years and a personal identity card has thereafter been issued to him or her, after any permanent change of his or her abode of residence or his or her postal address, notify the Registrar General within 30 days.

(2) If the Registrar General on the ground of information at his or her disposal, is of the opinion that a permanent change has occurred in respect of the abode of residence or the postal address of any person whose name is included in the population register, he or she may record the change in the population register, in consultation with the person concerned, and shall thereupon notify the person concerned that the change has been recorded.

Verification of particulars

13.The Registrar General may -

a). request any person to furnish the Registrar General with proof of the correctness of any particulars which have been furnished in respect of such person in any document in terms of this Act; and

b). investigate or cause to be investigated any matter in respect of which particulars are required to be recorded in the population register.

Certificates of certain particulars included in population register

14.(1) Without prejudice to the provisions of the Birth, Death and Marriage Ordinance (Cap.5), the Registrar General shall as soon as practicable after the receipt by him or her of an application, issue a birth, marriage or death certificate in the prescribed form after the particulars of such birth, marriage or death were included in the register in terms of section 9 of this Act.

(2) Any certificate issued in terms of subsection (1), shall in all courts of law be *prima facie* evidence of the particulars set forth therein.

Part III

Personal identity card

Personal identity card

15. A personal identity card may contain only the following relevant particulars in respect of the person to whom it is issued, namely -

- a). the particulars referred to in section 9(a), (b), and (c);
- b). any other particulars in the population register determined by the Minister by notice as particulars which, subject to the conditions, exceptions or exemptions (if any) mentioned in the notice, may be included in personal identity cards.

Application for personal identity card

16. (1) Any person referred to in section 4 who has attained the age of 18 years shall in the prescribed form and with payment of a prescribed fees apply to the Registrar General for a personal identity card.

(2) Two copies of the photograph referred to in section 10; and the fingerprints referred to in section 11, shall accompany the application made under this section.

Expiration date

17. An Identification Card issued under the provision of this Act shall be valid for 3 years.

Renewal

18. An expired card shall be renewed in a prescribed manner, with the payment of a prescribed fee.

Proof of Identity

19. (1) An authorised officer as defined in subsection (4) may at any time request any person reasonably presumed to have attained the age of 18 years to prove his or her identity to that officer by the production of his or her personal identity card as defined in subsection (5).

(2) If it comes to the attention of an officer acting in the service of the Ministry that a person referred to in section 4 who has attained the age of 18 years has not complied with the provisions of section 16(1), the authorized officer shall issue a compliance notice to the person to ensure that that person applies without delay for an personal identity card in terms of this Act.

(3) Failure to comply with the notice is an offence with a fixed civil fine of \$50.00 and \$2.00 for each day a penalty was not paid.

(4) For the purpose of this section "authorised officer" means -

- a). an agent of the Ministry authorized in writing by the Minister;
- b). Police Officer, Correctional Officer, Immigration and Customs Officer;
- c). a person, or a member of a category of person, designated by the Minister by notice and who for this section shall be deemed to be such a peace officer.

(5) For the purposes of subsection (1) "personal identity card" includes any other proof of identity issued by the Republic and on which the name and a photograph of the holder appears.

(6) The personal identity card shall be prima facie evidence of the age and abode of the named and pictured person therein.

Proof of residency

20. Pursuant to section 19 of the Constitution the personal identity card issued under this part is *prima facie* proof of having the right to enter and reside in Kiribati.

Part IV

Offences and Penalties

Offences and penalties

21. No person shall -

- a). for the purpose of this Act make or cause to be made a false statement;

b). record any particulars in the population register, unless authorised thereto in terms of section 7;

c). record any particulars in the population register which are in a material respect false, or fraudulently change any particulars therein;

d). having come into possession of an personal identity card, a certificate or a temporary identity certificate belonging to another person, present it as his or her own or belonging to any person other than the person to whom it belongs;

e). imitate, alter, deface, destroy or mutilate any personal identity card or any part thereof, certificate or temporary identity certificate, or cause it to be done or allow it to be done;

f). allow an personal identity card, a certificate or a temporary identity certificate belonging to him or her or which is under his or her control, to come into the possession of any other person for an unlawful purpose;

g). give out that any incorrect particulars in an personal identity card, a certificate or a temporary identity certificate are correct;

(h). at any time after a new personal identity card was issued to him or her, regain possession of an personal identity card previously issued to him or her under this Act and without lawful cause refuses to return for cancellation that previous personal identity card to the Registrar General within 14 days after a written request to return such personal identity card was served upon him or her, or after he or she regained possession of the previous personal identity card, as the case may be; or

(i). possess any personal identity card or any part thereof, a certificate or temporary identity certificate which has been imitated, altered, defaced or mutilated or any particulars of which are incorrect.;

(j). with intent issue a personal identity card to any person who is not entitle to receive it under this Act or any other laws.

(2) Any person who -

a.) contravenes a provision of subsection (1);

b). without lawful cause fails or refuses to comply with a request made under section 13(a);

c). without lawful cause refuses to comply with a provision of section 11 or section 16(1); or

d). contravenes a provision of section 23(1),

shall be guilty of an offence and liable on conviction to a fine not less than \$500.00 but not more than \$2000 or to imprisonment for a period not exceeding two years or both.

(3) A court convicting any person of an offence referred to in subsection (2) shall, if applicable -

a). declare the document or certificate in respect of which the offence was committed to be forfeited to the State; and

b). declare any instrument used for the purpose of or in connection with the commission of the offence, or the convicted person's rights thereto, to be forfeited to the Republic,

Provided that such declaration shall not affect any rights which any person other than the convicted person may have to such instrument, if it is proved that such person did not know that it was being used or would be used for the purpose of or in connection with the commission of such offence, or that he or she could not prevent such use.

Part V

Miscellaneous

Correction, cancellation and replacement

22. (1) If -

a). an personal identity card does not reflect correctly the particulars of the person to whom it was issued; or

b). a temporary identity certificate or any certificate does not reflect correctly the particulars of the person to whom it was issued, the person concerned or the guardian of the person to whom the

card or certificate was issued, as the case may be, shall within the 30 days hand over or send by registered post the personal identity card, temporary identity certificate or certificate, as the case may be, to the Registrar General.

(2) If the personal identity card, temporary identity certificate or certificate referred to in subsection (1) is not handed over or sent in accordance with that subsection, the Registrar General may obtain restoration thereof or seize it.

(3) If by virtue of this section the Registrar General has obtained possession of -

a). an personal identity card, he or she shall, without delay cancel it and, subject to section 10 and 11, replace it with a corrected personal identity card;

b). a temporary identity certificate or any certificate, he or she shall without delay -

(i) effect the necessary corrections directly on the temporary identity certificate or certificate, as the case may be, if in his or her opinion it can be done; or

(ii) in the prescribed manner cancel and replace it with a corrected temporary identity certificate or appropriate certificate, as the case may be.

(4) When it comes to the attention of the Registrar General that an personal identity card has been issued to a person whose name is not required in terms of section 4 to be included in the population register, the Registrar General shall request that person to return the personal identity card for cancellation.

Surrender or seizure of personal identity card of deceased person

23.(1). Any person who has in his or her possession a document being or purporting to be an valid personal identity card of a person who has died, shall within 30 days after the document came into his or her possession, hand over or send by registered post such document for cancellation to the Registrar General.

(2) A document handed over or sent to the Registrar General in terms of subsection (1), shall without delay after the receipt thereof be canceled

and destroyed in the prescribed manner and, unless a relative of the deceased person indicates in writing that he or she wants it.

(3) When it comes to the attention of the Registrar General that any person is in possession of a document being or purporting to be an uncanceled personal identity card of a person who has died, he or she shall without delay seize that document, and thereupon the provisions of subsection (2) shall *mutatis mutandis* apply in respect of that document.

Secrecy

24.(1) Subject to the provisions of subsection (2) and (3), no person shall publish or communicate to any other person any information recorded in the population register, an personal identity card, or any certificate which he or she acquired by virtue of his or her functions in terms of any law, except for the purposes of this Act, judicial proceedings or the performance of his or her functions in terms of any other law, and no person who came into possession of any such information which to his or her knowledge has been communicated to him or her in contravention of the provisions of this section, shall publish the information or communicate it to any other person.

(2) Notwithstanding the provisions of subsection (1), the Registrar General may furnish any information in respect of a person whose name is included in the population register to -

a). any person or institution on behalf of, and on the written instruction of, any such person;

b). any government department, statutory body;

c). any other organisation, body, society or institution,

subject to the restrictions, conditions, exclusions, directives and fees as may be prescribed.

(3) No information may be furnished to any organisation, body, society or institution contemplated in subsection (2) unless the information is required for the exercise or protection of any rights, is in the public interest, or is for the compilation of a voter's roll.

Reproduction of documents

25.(1). Notwithstanding anything to the contrary contained in any other law, the Registrar General may, in respect of a person or class of persons determined by him or her, reproduce or cause to be reproduced any document from which the population register is compiled or maintained by means of any process which in his or her opinion accurately and durably reproduces such documents, and may preserve or cause to be preserved those reproductions in lieu of such documents.

(2) A reproduction referred to in subsection (1) shall, notwithstanding anything to the contrary contained in any other law, for all purposes be deemed to be the original document from which it was reproduced, and a copy of such reproduction which has been certified by the Registrar General as a true copy, shall in any court of law be conclusive proof of the contents of the relevant original document.

Regulations

26.(1) The Minister may make regulations as to -

a). the issue of duplicate personal identity cards, temporary identity certificates, or other certificates, the circumstances under, and the conditions subject to, which they may be issued and the fees payable therefor;

b). the form of and the issue of certificates in respect of particulars contained in the population register or in an personal identity card, the purposes for which such certificates may be used and the evidential value thereof;

c). the issuing of instructions and the prescribing of forms by the Registrar General which may be necessary for the effective execution of the provisions of this Act, and in general, as to all matters which, in terms of this Act, are required or permitted to be prescribed or which he or she deems necessary or expedient to prescribe in order that the objects of this Act may be achieved.

(2) Any regulations made under subsection (1) may prescribe penalties of a fine of not more than \$1000 or of imprisonment for a period not exceeding two years for any contravention thereof or failure to comply therewith.

(3) Any fees which may be prescribed under this Act shall be prescribed by the Minister with the concurrence of the Minister of Finance.

Explanatory Memorandum

The Act seeks to provide a legal mechanism to allow for the issuance of national identity cards for citizens, persons of I-Kiribati descent and those who are lawfully in Kiribati. It allows for the use of records currently legalized under the Birth, Death and Marriage Ordinance (CAP.5) and the use of the same for election and citizenship purposes under the Election Ordinance, and the Citizenship Ordinance.

Part 1 – Preliminary

Section 1, refers to the citation or short titles of the Act.

Section 2, provides for the definition of the words and phrases that are used in the Act.

Section 3, provides for the use of information under the Birth, Death and Marriage Ordinance and other information available to the Registrar-General to be used for establishing a population register.

Section 4, allows for the Act to be applicable not only to citizens but also to those lawfully residing in the country.

Section 5, allows the Registrar General the power to delegate functions and powers provided under this Act to a public officer.

Part II – Population Register

Section 6, the population register is provided under this section and the same allows for the maintenance of it by the Registrar General.

Section 7, restricted the access of such information by any person except in accordance to the provision of this Act. This in effect, guarantees the safe, confidential and high security for the data.

Section 8, deals with the assignment of serial number and the particulars that may be incorporated for the purpose of the section.

Section 9, provides particulars that are needed to be entered against the named person eligible under section 4).

Section 10, makes it compulsory for the applicant to furnish two prescribed passport photos at the applicant's expense, if he or she is applying for the identification cards or renewing it.

Section 11, provides for a legal mechanism to allow the collection of finger prints from eligible individuals.

Section 12, allows for the change in abode of resident. This will allow the Registrar General to updates the population register and to make it easier for the tracking of individuals for election purposes.

Section 13, empowers the Registrar General, to request any person to furnish any proof of the correctness of particulars being provided for the purpose of the Act. At the same time, it empowers the Registrar General to investigate or cause to investigate matters in respect of the Act.

Section 14 seeks to compliment the powers of the Registrar General under the Birth, Death and Marriage Ordinance (CAP 5) in issuing out birth, dead and marriage certificates under this Act.

Part III – Identity Card

Section 15 refers to particulars that are authorized to be displayed on an identification card issued under this section. Section 17 provides for the application process, while section 18 allows for a three year life span of the card. This pave way to minimize registration every year. Section 19, on the other hand, provides for proof of identity if required by an authorized officer. An authorised officer includes a police officer, an agent of the Ministry or any other group of persons designated by the Minister in writing.

Part IV – Offences and Penalties

This part has only one section which provides for offences against any breach of the Act. What is important to note is that under subsection (2) an offence is punishable by a fine of not less than \$500.00 but not more than \$2000.00 or a prison term of not more than 2 years or both. This will allow for a strong deterrence to those who seek to compromise the secrecy and sensitivity of the information that are collected under the provisions of the Act.

Part V – General Provisions

This part deals with the process of correcting, cancelling and replacing of identification cards, it deals with surrender, seizure of cards of deceased persons. It also covers for the secrecy of the data being collected and seeks to protect it from abuse or fraudulent acts. It also provides the reproduction of documents by the Registrar General under the Act and the power of the Minister to make regulations for the advancement of the Act

Hon. Natan Teewe
Minister of Justice
24/07/2018

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression of the National Identity Registration Act has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 19th November 2018 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 2018.

Eni Tekanene



Clerk of the Maneaba ni Maungatabu

Republic of Kiribati

(No. of 2018)



I assent,

Beretitenti

Commencement

3/12/ 2018

AN ACT

entitled

An Act to Constitute the Office of the Public Legal Service and other connected purposes.

**PART I
PRELIMINARY**

Short Title

1. This Act may be cited as the Public Legal Services Act 2018.

Interpretation

2. In this Act, unless the context otherwise requires:

“Legal aid” means legal aid provided under this Act;

“Legally aided person” means a person to whom legal aid is provided;

“Legal Practitioner” shall have the meaning assigned thereto by section 2 of the Kiribati Law Society Act 2006;

“Minister” means the Minister responsible for the administration of this Act.

"Practicing certificate" means a practicing certificate granted under Kiribati Law Society Act 2006.

PART II

ESTABLISHMENT OF THE OFFICE OF THE PUBLIC LEGAL SERVICES

Office of the Public Legal Services

3. (1). The Office of the Director of the Public Legal Service is hereby established.

(2). In order to avoid doubt, the Office of the People's Lawyer established before the commencement of this Act shall be deemed to have been established pursuant to subsection (1).

Appointment of the Director and Staff

4. The Beretitenti acting in accordance with the advice of the Public Service Commission may appoint the Director of the Public Legal Services.

Qualifications

5. No person shall be qualified to hold or to act in the position of Director unless she or he is a qualified legal practitioner and has been admitted to practice in the High Court of Kiribati.

Functions of the Director

6. (1). The Director shall:-

- a). be directly responsible in the day to day administration of the Public Legal Services;
- b). be directly accountable to the Secretary of the Ministry in administrative matters, general policies and expenses and utilisation of administrative budgets appropriated by the Maneaba ni Maungatabu;
- c). execute or cause to be executed any government policies underpinning the principle of the Act;
- d). provide legal services to the people of Kiribati in need of such assistance;
- e). provide legal services to any person when directed to do so by the High Court;

- f). be responsible for any act, matter or thing done in the name of, or on behalf of, the Office of the Public Legal Services by or with the authority of the Director is taken to have been done by the Office of the Public Legal Services;
- g). exercise of such other functions required under this Act or any other Act;
- h). exercise such other functions as are conferred or imposed in it by or under this or any other Act.

(2). Subject to the provisions of this Act or any other Act, the Office of the Director of Public Legal Services may do all such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions.

Legal Services not subject to any authority

7. In the provision of legal services under this Act, the Director is not subject to any person or any authority.

PART III

PROVISION OF LEGAL SERVICES

Provision of legal services

8. (1). Legal Services may be provided by the Public Legal Service by such means as the Minister may determine by regulations, including but not limited to any one or more of the following means:

- a) representation of persons in proceedings, including all such assistance as are usually given in the steps preliminary or incidental to the proceedings or in arriving at, or giving effect to, a compromise to avoid or bring an end to the proceedings; and
- b) includes providing legal advice and assistance to disadvantaged persons.

(2). Nothing in this Act prevents the Office of Public Legal Services from providing, to a patient within the meaning of the Mental Treatment Ordinance (Cap.56) or Act responsible for mental treatment, aid in respect of any matter, whether of a legal nature or not.

Duties to be observed in the provision of legal service

9. The Office of the Public Legal Services shall:

- a) ensure that legal aid is provided in the most effective, efficient and economical manner,
- b) have regard to the need for legal aid to be readily available and easily accessible to disadvantaged persons throughout Kiribati,
- c) ascertain and keep under review community needs in relation to legal aid.

Application for legal service

10. (1). Subject to section 7, any person may apply to the Director of the Public Legal Services for any legal assistances.

(2). Nothing in subsection (1) prevents a person from making an application on behalf of another person.

(3). An application is to be made in the manner and form prescribed by regulations.

False application

11. A person knowingly makes an application that is false in any material particular commits an offence and is liable to a minimum fine penalty \$500 but not more than \$2,000 or imprisonment minimum of 2 weeks and a maximum of not more than 2 years or both.

Immunity

12. An act or omission of the Director of Public Legal Service, the Public Legal Services lawyer or a member of staff of the Office of the Director of Public Legal Service is not subject to liability, claim or demand if the act or omission was done, or omitted to be done, in good faith for the purpose of executing this Act.

Part IV

Public Legal Services Special Fund

13. Subject to the provisions of the Constitution and the Public Finance (Control and Audit) Ordinance, a Legal Services Fund is hereby established.

Payment into the Fund

14. There shall be paid in the Legal Service Fund: -

- a). Money appropriated by the Maneaba ni Maungatabu shall be deposited in such funds.
- b). Money collected by the office of the Public Legal Services under this Act or regulations;
- c). Any other funds lawfully available to the fund.

Payment out of the Fund

15. There shall be paid out of the fund:-

- a). the amount of expenses by the Republic in respect of Public legal Services;
- b). expense approved by the Minister responsible for Finance with concurrence with the Minister of administration and carrying out into effect the provisions of this Act or regulations.

Monies to be issued by warrant

16. No monies shall be paid out of the fund, except in accordance with a warrant under the hand of the Minister responsible for Finance authorizing the Accountant General to issue monies to the Director who shall be the accountable officer.

Funds not to form part of Government Revenue

17. Notwithstanding the provisions of the Public Finance (Control and Audit) Ordinance, no money shall be transferred from the fund to the Consolidated Fund so as to form part of the general revenue of Government

Part V

MISCELLANEOUS

Discretion of court or tribunal as to costs

18. (1). A court or tribunal which may order the payment of costs in proceedings before it, shall, where a legally aided person is party to any such

proceedings, make an order as to costs in respect of the legally aided person as if he or she was not a legally aided person.

(2) For the avoidance of doubt, the Office of the Public Legal Service is not responsible for the payment of a cost order made against a legally aided person.

Annual report

19. (1). The Office of the Director of Public Legal Service shall as soon as practicable after the end of the financial year or as required, prepare and forward to the Minister a report of its work and activities for the year ending on that date no later than end of February each year.

(2). The Minister shall lay the report, or cause it to be laid, before the Maneaba ni Maungatabu as soon as practicable.

Regulations

20. The Minister may make regulations –

- a) prescribing any matter which, by this Act, is or may be required to be prescribed;
 - b) prescribing the selection and classification of person(s) to be considered eligible for the legal services;
 - c) in the case where a person seeks legal aid in a matter of urgency, making provision necessary to meet the special circumstances;
 - d) making provision as to the manner in which the rate of a person's disposable income is to be computed for the purposes of this Act;
 - e) prescribing any forms and fees to be used under this Act; and
 - f) generally for the better carrying out of all or any of the provisions of this Act.
-

EXPLANATORY MEMORANDUM

Introduction

Since the separation of the Public Legal Service from the Judiciary, the organisation has grown in both size and effectiveness.

However, in order for the Public Legal Services to be independent or seen to be independent in providing legal services, it is important that it is given a legal status.

This Act formally establishes the Office of the Public Legal Services as a separate government body, reporting to the Minister.

Overview of each part

Part I of the Act provides for a number of preliminary matters, including definitions.

Part II provides for the establishment of the Office of the Public Legal Services that is to be administered by a Director appointed under section 3. Section 4 deals with the appointment of staff of this Office.

Section 5 provides for the qualification of a person to hold the Office of the Director. While section 6 provides for the functions of the said Director

Section 7 provides for the independence of the Director while performing his or her functions in providing legal services.

Part III provides for the provision of legal service by the Public Legal Services Office and further provide for the duties of the Office to ensure that legal service is readily available and affordable and to continue to review the community need in relation to legal services. Section 10 provides for a method of applying to the Public Legal Services Office. Section 11 seeks to protect the integrity of the Office by making a false declaration made to the said office to be a criminal offence. Section 12 provides for immunity against officers of the said Office to allow them to perform their functions without fear of being exposed to criminal or civil suit.

Part IV seeks to establish a special revolving fund for the Public Legal Services. This will enable the office to collect revenues and to use such fund to provide and support its legal service to the general public.

Part V is a miscellaneous provision that provide for the Court and tribunal discretion as to the awarding of cost against the person represented by the Public Legal Service. It seeks to protect the Public Legal Services from being held liable to pay cost awarded by the Court or Tribunal. Section 18 provides for an Annual General Report of the Public Legal Service to be submitted to the Maneaba ni Maungatabu.

Section 19 is the regulation making powers provide for the Minister to allow for the advancement of the Act or provisions of the Act.

.....
Hon. Natan Teewe
Minister for Justice

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

This printed impression of the Public Legal Services Act 2018 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 20th August 2018 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
..... 2018.

Eni Tekanene
Clerk of the Maneaba ni Maungatabu

REPUBLIC OF KIRIBATI

(No. of 2018)



I assent,

Beretitenti

13/10/ 2018

AN ACT

entitled

AN ACT TO MAKE PROVISION FOR THE REGISTRATION OF RELIGIOUS BODIES; THE TRUSTEES OF RELIGIOUS BODIES AND FOR MATTERS CONNECTED THEREWITH

Commencement:

2018

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

Short Title

1. This Act may be cited as the *Religious Bodies Registration Act 2018*.

Commencement

2. This Act commences on a date to be appointed by the Minister.

Definitions

3. "Minister" means the Minister responsible for religious bodies;

“Religious Body” means any congregation, society or body in Kiribati consisting of or representing not less than 2 per cent of persons of the age of 18 years and upwards as indicated in the latest report of the Census Commissioner on the census of the inhabitants of Kiribati taken pursuant to the Census law currently in place;

“Register” means the Register of religious bodies established under section 5(4);

“Registrar” means the Registrar of religious bodies appointed under section 4;

“Registration” includes amendment, substitution, removal and withdrawal of that registration.

Registrar and registration of religious body

4. (1) There shall be a Registrar of religious body appointed by the Minister to carry out the duties and functions and exercise the powers vested in him under this Act.

(2) Any religious body as defined by this Act may be registered as a religious body under this Act.

(3) The power to register includes the power to amend, substitute, remove and withdrawal of any registration from the register.

Application for registration

5. (1) Subject to section 15, every religious body operating in Kiribati on the date of the commencement of this Act shall, within 6 months of such date, apply to the Registrar for the registration of the religious body.

(2) Every application for registration shall be submitted to the Registrar by the duly recognised head of such religious body and shall consist of the following:-

- (a) the name or denomination of the religious body applying;
- (b) the names and addresses of the trustees of that religious body;
- (c) a list of churches or other regular places of worship of the religious body in Kiribati;
- (d) specify the place where the principal office of administration of the religious body is to be situated; and
- (e) the constitution of the religious body and a full and clear statement of the objectives and beliefs (if any) of the religious body.

(3) Every application shall be in the form set out in the Schedule to this Act and shall be signed by the duly recognised head and 5 other members of the religious body in the presence of an administrative officer;

Provided that if the religious body so requesting registration does not include and represent the adherents for the whole of the Islands to the religious denomination to which it belongs then such request shall include a consent to such application for registration by the duly recognised head in the Islands of the religious denomination to which such body belongs.

(4) The Registrar, after making such inquiries as he shall deem necessary for the purpose of confirming any of the matters included in such request, may at his discretion register the name and particulars of such religious body in a register book kept for the purpose and shall thereupon furnish to such religious body a certificate of registration in the Form 1 set out in the Schedule.

(5) The Registrar, shall refuse registration of a religious body's name which is identical with that of a name already registered.

(6) Where the Registrar chooses not to register any religious body he shall serve a notice to such religious body within 14 days stating reasons why such registration is refused.

(7) A certificate of registration issued by the Registrar shall be conclusive evidence that the requirements of this Act in respect of registration have been complied with and that the religious body has been registered under this Act on and from the date stated in the certificate, under the name contained in its certificate of registration.

(8) The Registrar shall publish in the Gazette a notice of every registration under this Act.

Application for a review

6. A religious body whose application for registration is refused by the Registrar may apply to the Minister for review within 14 days from the date on which their application is refused.

Registration of trustees

7. (1) A memorial of the names of the trustees for any religious body so registered shall be submitted to the Registrar for registration, provided that the trustees for any such religious body shall not exceed 5 in number.

(2) Such memorial shall be in the Form 2 in the Schedule and shall be signed by the duly recognized head of such religious body and two of the ministers, priests, deacons or elders thereof, and shall state that such trustees have been properly appointed in accordance with the constitution of such religious body.

Provided that the memorial of the names of trustees in respect of a religious body which does not include and represent the adherents for the whole of Kiribati to the religious denomination to which it belongs shall include a consent thereto by the duly recognised head in the Islands of the religious denomination to which such body belongs.

(3) On receipt of such memorial the Registrar shall enter the particulars thereof in a register book kept for that purpose and upon such registration the names of the persons for the time being so registered shall be taken for all purposes as the names of the trustees of such religious body.

Actions to be brought by or against trustees

8. (1) All actions and proceedings at law instituted or brought in relation to the property in Kiribati of any religious body shall be instituted or brought by or against the persons registered as trustees for the time being of such religious body and any such action or proceeding shall be carried to its final termination notwithstanding

any alteration in the registered trustees of such religious body after such action or proceeding has been commenced.

(2) All actions and proceedings instituted or brought on behalf of a religious body shall be instituted or brought by the trustees of such religious body at their discretion and any sum ordered by any court to be paid by any such trustees, either as damages, costs or otherwise, shall, unless the court shall order to the contrary, be payable out of the property of the religious body vested in such trustees.

Trustees to be beneficial owners of property

9. (1) The trustees registered under this Act shall for all purposes of dealing with any interest in land or other property be treated as the beneficial owners thereof:

Provided that in no case shall any such interest in land or other property devolve on the heirs or personal representatives of any trustees.

(2) Where any interest in land or other property has been or is hereafter acquired by or on behalf of any religious body the assurance vesting such property in such trustees shall not only vest the property assured in the parties named therein but shall also effectually vest the same in the survivor or survivors of such trustees and, on the appointment of new trustees, in the new trustees for the time being together with the continuing trustees, if any, jointly, or if there are no such continuing trustees then in such new trustees and in each such case such new trustees shall be registered in accordance with section 10 and without any further transfer or assurance whatsoever.

(3) The trustees for the time being registered under this Act may give, sell, exchange, lease or otherwise deal with any of the property vested in such trustees and may give valid receipt for any moneys paid to them in respect of the sale, exchange, lease or dealing with any such property.

Change of trustees

10. In the event of the death, resignation, or removal from his trust of any trustee of a religious body, the requisite alteration in the names of the trustees of such body shall be effected by a memorial in the Form 3 in the Schedule to be signed and registered in the same manner as prescribed in section 7 for the registration of a memorial of trustees and until such memorial is so registered such appointment of a new trustees shall have no operative effect.

Registration of changes

11. (1) A religious body shall lodge with the Registrar within 30 days of the change details of any changes that have taken place relating to:-

- (a) the name of the religious body; or
- (b) change of registered office and
- (c) the constitution or aims and beliefs of the religious body.

(2) Every change shall be lodged in the form set out in the Schedule to this Act and must be signed by the duly recognised head and 5 other members of the religious body in the presence of an administrative officer.

(3) The Registrar shall impose a fine of \$200 to any religious body which fails to comply with subsection (1).

Cancellation of registration

12. (1) If the Registrar is of the opinion that:-

- (a) a registration under this Act was obtained by fraud, misrepresentation or mistake; or
- (b) any of the objects of a religious body which has been registered have become unlawful; or
- (c) a religious body is being used for an unlawful purpose; or
- (d) a registered name is no longer used by a religious body; and
- (e) a religious body has failed to comply with any of the provisions of this Act.

the Registrar shall issue a notice to a religious body to provide explanation within 30 days as to why a registration should not be cancelled.

(2) If within 30 days of service of notice a religious body fails to satisfy the Registrar, he may cancel its registration by notice published in the Gazette.

(3) A religious body that continues to use its registration certificate after being cancelled shall be fined by the Registrar in the amount of \$500.

Offences - generally

13. Any person who commits an offence punishable under any other laws shall be reported to the Office of the Attorney General which shall deal with such person accordingly.

Repeal

14. The *Religious Bodies Registration Ordinance (Cap 89)* is hereby repealed.

Transitional

15. Nothing in this Act shall in any way affect or invalidate the registration of any religious body duly registered and made under the *Religious Bodies Registration Ordinance (Cap 89)* before the commencement of this Act.

Explanatory Memorandum

This Act repeals the Religious Bodies Registration Cap. 89 as stated in section 14. It seeks to make provision for new changes in particular to accommodate new issues which were not catered for in the Ordinance. Of significance is the desire of new religions to register. More powers is accorded to the Registrar of religious bodies in terms of registration as he or she can amend, substitute, remove or withdraw the registration if it does not comply with provisions of this Act. Further it empowers the Registrar to impose fines for non-compliance of this Act.

The Preliminary part is dealt with in sections 1 to 4 in terms of establishing the name of the Act, the date in which the Act will come into force, the definition clause and the establishment of the Registrar. A new definition of "registration" is added and this definition expands the meaning of registration to include the power to amend, substitute, remove and withdrawal of such registration from the register. This was also reflected under the Registrar's power in section 4(3).

An application to register is stated in section 5 and allows religious bodies to apply to the registrar. The application is to be submitted in the form set out in subsection 3 by the head of that body and must comply with the requirements provided in subsection 2. The Registrar will register the name of the religious body in a register book if all the requirements are met and will provide a certificate of registration in a proper form as evidence of their registration (subsections (4) and (7)). The Registrar shall refuse registration of a religious body's name which identical with a name already registered. (subsection 5). The Registrar can also refuse to register a body but must notify the religious body within 14 days and provide reasons. (subsection (6)) Any religious body whose application is refused may apply to the Minister for review. (section 6).

The registration of trustees is provided in section 7 which must be submitted by the head of the religious body to the registrar. A trustees must not exceed 5 people section 7(1), and made in a proper form (7(2)) and the Registrar shall enter the particulars in the register book section 7(3). The reason for registering trustees is to give them legal basis to institute any legal proceedings for and against the religious body as stated in section 8. Section 9 provides for trustees to be beneficial owners of property meaning they will administer the property of that religious body.

Change of the registered trustees is stated in section 10 and it provides that when the trustees dies, resigned and removed the change in the memorial of new trustees will be effected in the same process provided for in section 7. If this change is not registered then their appointment will be of no effect.

Section 11 says that a registration of change must be carried out within 30 days of the change in detail in respect of the name, office and constitution or aims of that religious body. A new form is created in subsection 2 that a change must be filed in the prescribed form by the duly recognised head and 5 other members in the presence of the administrative officer. The Registrar is given the mandate to impose fine under subsection 3 if the religious body failed to comply with subsection (1).

Cancellation of registration is laid out in section 12. If the Registrar is of the opinion that a registration is obtained by fraud, misrepresentation, mistake, the objects and the purpose have become unlawful, a registered name is no longer used or had failed to

comply with the provisions of this Act the Registrar must issue a notice to that religious body to provide reasons within 30 days as to why the registration should not be cancelled. A fine of \$500 is stated in section 12(3) that the Registrar shall impose.

Section 13 talks on offences generally that must be reported to the office of the Attorney General to deal with it accordingly. The repeal section has been discussed earlier and transitional provision is stated in section 15 which provide for registration made under the repealed Ordinance to be continually recognized under this Act.

Honourable Vice President Kourabi Nenem
Minister for Women, Youth & Social Affairs

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

This printed impression of the Religious Bodies Registration Act 2018 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 20th August 2018 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 this¹³ day
of^{October}..... 2018.

Eni Tekanene
Clerk of the Maneaba ni Maungatabu