

**REPUBLIC OF KIRIBATI**  
(No. 9 of 2016)



I assent,

  
Beretitenti  
13/1/2017

**AN ACT**  
**entitled**  
**LEADERS CODE OF CONDUCT ACT 2016**

Commencement: .....

**PART I**  
**PRELIMINARY**

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

**1. Short Title:**

This Act may be cited as the Leaders Code of Conduct Act 2016.

**2. Policy:**

The Maneaba ni Maungatabu declares and recognizes the right of the people of Kiribati to a responsible and an ethical government and the obligation of the government to take every step reasonable and necessary to conduct government in accordance with the Constitution and the Laws of Kiribati.

The essence of holding public office is the duty of trust which is attached to the office. Public Office Holders, as Leaders, have the duty to uphold the dignity and independence of their offices, to discharge their duties with a strong sense of commitment to the public interest and to steer clear of decisions that are motivated by self-interest.

### 3. Interpretation:

“benefit” means any detectable advantage or gain received, other than those received by normal standards of basic courtesy and hospitality.

“bribe” means a transaction in which a person gives or promise to give something of value, or other advantage, to a Leader in order to influence that Leader to act or refrain from acting in the performance of his official duties so as to obtain or retain favor.

“conflict of interest” means that a Leader has an interest in the matter and that his legal or official powers or functions require or enable him to make control or strongly influence decisions relating to that matter.

“custom” means a tradition, practice or usage that is generally accepted as morally binding within the community.

“financial gain” means making a profit or avoiding or reducing a loss.

“gift” means the transfer of something of value without recompense and as a gesture of friendship.

“government agency” include Ministries, Government Departments and all State Owned Enterprises.

“immediate family” include parents, grandparents, spouse, children, grandchildren, brothers and sisters.

“interest in a matter” means a person owns directly or indirectly, property or assets of any kind related to the matter or has a beneficial interest of any kind in that matter.

“leader” include a person who currently hold any of the following positions:

- a) Te Beretitenti;
- b) Kauoman ni Beretitenti;
- c) Minister;
- d) Speaker, Clerk of the Maneaba ni Maungatabu;
- e) Member of the Maneaba ni Maungatabu;
- f) Attorney General, Solicitor General, Director of Public Prosecution;
- g) Chief Justice, Judge, Magistrate, Registrar of Court;

- h) Commissioner of Police;
- i) Mayor, Councillor, Clerk of Local Government;
- j) Administrative Head of a Government Ministry, Agency and State Owned Enterprise (including Board Director) ;
- k) Constitutional Office Holder, Kiribati High Commissioner or Ambassador, Special Envoy.

“special envoy” is anyone who is appointed by Te Beretitenti to be his special representative to a regional or international meeting or function and can act or perform a function on behalf of Te Beretitenti and the Government of Kiribati.

“violation” of this Code means any conduct that infringes any of the provisions of this Code.

## PART II OBLIGATIONS OF A LEADER

### 4. Respect for the Law:

A Leader must:

- a) respect and uphold the Constitution and all laws and regulations of Kiribati;
- b) respect, support and enforce the decisions of courts and independent tribunals;
- c) disclose any fraud or corruption that he becomes aware of;
- d) not influence, threaten or abuse persons carrying out their lawful duties.

### 5. Respect for the People:

A Leader must:

- a) be honest in his public dealings and must not intentionally mislead the public;
- b) always give priority to his official duties;
- c) perform his public duties without fear, favor or hatred;
- d) conduct himself responsibly, fairly and impartially;
- e) ensure that public facilities are used reasonably for public purposes only;
- f) not use his position and power for his own personal enrichment or gratification;
- g) treat members of the public and other Leaders honestly and fairly with proper regards for their rights and obligations;
- h) not give or obey an illegal order to use force against another citizen;

- i) not hold two or more offices or positions in government and government agencies that entail double pay;
- j) not bring the Government or his office into public disrepute; and
- k) uphold the highest moral standard.

#### **6. Economy and Efficiency:**

A leader must:

- a) ensure that public resources are not wasted, abused or used improperly or extravagantly when performing his public duties;
- b) exercise proper diligence, care and attention;
- c) not misuse public funds; and
- d) seek high standards of public duties.

#### **7. Appointments on Merit:**

A Leader must:

- a) act fairly in appointing or recommending people to offices and positions for which he has responsibility;
- b) encourage people to participate in Government according to their abilities; and
- c) not use his political influence to interfere with appointments, dismissals, suspensions or promotions of public servants.

#### **8. Gifts:**

A Leader:

- a) may give or accept gifts in accordance with custom and practices;
- b) should not accept other benefits, whether financial or otherwise, from any person or group or organization that may entail future favors;
- c) should not accept a bribe.

#### **9. Conflicts of Interest:**

A Leader who knows, or has reason to suspect that he may face a possible conflict of interest on any matter, must:

- a) declare such possible conflict to the appropriate body or authority; and
- b) not to participate, make a decision or vote in any meeting at which such matter is discussed.



#### **10. Government Contracts:**

A Leader must not be involved at all in the approval process of any commercial contract or agreement with the Government or Government Agency, where that Leader has a personal interest.

#### **11. Annual Statements of Interests:**

- a) A Leader must lodge with the Leadership Commission before the end of January every year, a brief written statement of his assets and liabilities, in and outside Kiribati, and that of his immediate family. The statement may include a list of properties and their estimated values.
- b) A Leader who has not filed the annual statement by the required deadline or who filed a false statement is in violation of this Code.

### **PART III MACHINERY PROVISIONS**

#### **12. Effective Date:**

This Code applies to all actions and omissions that occur after it takes effect.

#### **13. Leadership Commission:**

- (1) There shall be a Leadership Commission for Kiribati consisting of the Chairperson and 2 other members to be known as the Leadership Commissioners.
- (2) The Leadership Commissioners shall be appointed by Te Beretitenti on the advice of the Cabinet for a term of 3 years. The term of the Leadership Commissioners may only be renewed for another 3 years.
- (3) The names of the Leadership Commissioners shall be tabled in the Maneaba ni Maungatabu at its next following meeting.

- (4) The Leadership Commissioners shall possess the following qualifications:
- a) Must be at least 50 years old;
  - b) Must have good educational background;
  - c) Must have not less than 10 years work experience with the Government or Government Agency, at senior management level;
  - d) Must have no previous criminal convictions for felony offences;
  - e) Must have a good understanding of the law; and
  - f) Must have good public standing and reputation.
- (5) The primary functions of the Leadership Commission are:
- a) to receive complaint against Leaders;
  - b) to investigate alleged violations of this Code;
  - c) to require the evidence of any witness(whether written or oral) to be given on oath or affirmation;
  - d) to summon any person to give evidence or produce relevant documents or things in his possession;
  - e) to report on the outcome of all investigations;
  - f) to educate the public on matters related to this Code, and
  - g) to determine their own rules of procedures.
- (6) The Leadership Commission should provide a report of its investigations, findings and recommendations to the Office of the President for appropriate action. Where the findings involve criminal activities, a copy of the Report shall be provided to the Commissioner of Police for proper criminal investigations and to the Attorney General's Office for their review, and possible prosecution.
- (7) The Leadership Commission shall accord the Leader that is under investigation the right to be heard and to produce evidence in support of his case.
- (8) The Leadership Commission shall provide an annual report of its activities for tabling in the Maneaba ni Maungatabu.
- (9) The Government shall provide the Leadership Commission with an appropriate office space and equipment, an annual operational budget and qualified support staff.

- (10) The Leadership Commissioners must be entitled to salary and allowances as prescribed by regulations.

**PART IV  
INVESTIGATION OF VIOLATIONS**

**14. Investigation Process:**

- (1) The conduct of a Leader must be investigated and reported upon:
  - a) If the Leadership Commission receives a written complaint from any member of the public who is qualified to vote;
  - b) If the Leadership Commission itself believes the Leader may have committed a violation of this Code.
  
- (2) The Leadership Commission may resolve that the investigation shall be carried by one or some of the Commissioners, on behalf of the full Commission.
  
- (3) The Leadership Commission may seek the assistance of relevant Government Departments and Agencies in their investigations.
  
- (4) If the person bringing the complaint requests in writing that his name not be published, then his name must not be disclosed, unless as may be otherwise permitted or required by an order of the court.
  
- (5) In carrying out its functions the Leadership Commission must be given access at all convenient times to every paper, minutes, record, contract, book, computer storage facilities and equipment, account or other documents that is in the possession of any organization, body or individual, and that is relevant to the investigation.
  
- (6) The Leadership Commission may direct any person it considers able to give any information relating to the alleged or suspected violation of this Code to furnish that information or summon that person to appear before the Commission at a specified time and place to be examined on oath or affirmation.
  
- (7) The Leadership Commission may administer an oath or affirmation to a person appearing as a witness and may examine the witness.

- (8) A witness attending before the Commission has the same privileges and is subject to the same penalties as a witness before the Court.
- (9) The Leadership Commission may decide to terminate an investigation already commenced if it considers the complaint to be trivial, frivolous, vexatious or not made in good faith.

**15. Evidence:**

Any investigation, hearing or other proceeding under this Code should have regard to the ordinary rules relating to the admissibility of evidence, but may depart from those rules when it deems necessary to achieve a fair and reasonable result.

**16. Investigation Report:**

The Leadership Commission must provide a copy of its investigation report to the person who made the complaint, the Leader investigated, Te Beretitenti, the relevant authorities, and if the report accuses any named persons of a criminal offence, the Office of the Attorney General.

**PART V  
PENALTIES**

**17. Criminal Penalties:**

To the extent that violations of this Code constitute crimes under the Penal Code or otherwise, they shall be punishable as provided therein. Such penalties shall be in addition to the civil and administrative remedies set forth in this Code.

**18. Civil and Administrative Remedies:**

- (1) If a Leader is found to have violated this Code, the Leadership Commission may find such person to be liable to one or some or all of the following Orders, as may be thought fair and necessary to do justice and restore public confidence:
- a) Forfeiture of gains;
  - b) Restraining Order;
  - c) Oral or Written warnings or reprimands; and



- d) Suspension or Removal from Office, in accordance with the applicable laws and contract of employment.
- (2) The Leadership Commission may make an order of negative findings.
- (3) (a) If the Report published by the Leadership Commission accuses a Leader of a criminal offence, the Attorney General must consider the Report; may order further criminal investigations by the Police; and may bring a prosecution against that Leader.
- (b) The Attorney General cannot bring a prosecution under this section more than twelve(12) months after the Report was published.
- (4) (a) A person named in a decision or order made under this Code may appeal to the High Court. The High Court may dismiss the appeal summarily without hearing it, or after hearing the appeal, may make an order upholding, quashing or varying the order or decision.
- (b) Appeals against a decision or order are deemed exhausted after two months from the date the decision or order was made.
- (5) It is not a defence that the accused was no longer a Leader at the time he was investigated, prosecuted, convicted or sentenced.

#### **PART VI OFFENCE**

19. Any person who refuse to assist, or cooperate with the work and operations of the Leadership Commission, commit an offence punishable on conviction with the maximum penalty of 6 months or a fine not exceeding \$500.00, or both.

#### **PART VII REGULATIONS**

20. Te Beretitenti, acting in accordance with the advice of the Cabinet, may make regulations for the purpose of giving effect to this Act.

## EXPLANATORY MEMORANDUM

This Act will put in place a Code of Conduct for Leaders. It will support a commitment under the Biketawa Declaration to the principles of good governance whereby the Leaders are required to lead with fairness, transparency and accountability. The Code of Conduct is based on certain ideals and values that are generally acceptable in society and are expected of Leaders.

The Act has Seven Parts. Part I deals with Preliminary matters and include the Interpretation or Definition Section.

Part II sets out the Obligations of a Leader, which include respect to the law and the people; proper use of resources; the need for efficiency; fairness in appointments to employment and official positions; receiving of gifts; conflict of interest and the filing of annual statements of Leaders interest.

Part III covers the Machinery provisions. Of more significance is the establishment, the powers and functions and the operations of the Leadership Commission.

Part IV deals with the investigations of violations of the Code, including acceptable evidence and the preparation and submission of a final report.

Part V is to do with the penalties for violation of the Code and the decision or outcome of the determination of the violation.

Part VI creates a criminal offence and punishment for not assisting or cooperating with the Leadership Commission.

Part VII allows for the making of the required regulations.

**Hon. Natan Teewe Brechtefeld MP**  
**Minister of Justice**

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

This printed impression of the Leaders Code of Conduct Act 2016 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 8th December 2016 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 <sup>13</sup>..... day of  
.....<sup>January</sup>..... 2017.



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