

REPUBLIC OF KIRIBATI

LOCAL GOVERNMENT ACT 1984

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SCHEDULE

REPUBLIC OF KIRIBATI
(No. 2 of 1984)

I assent,

Beretitenti.
1984.

AN ACT TO MAKE PROVISION FOR LOCAL GOVERNMENT
AND FOR CONNECTED PURPOSES

Commencement:
1984.

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 Local Government Act 1984.
-
- Interpretation. 2(1) In this Act, unless the context otherwise requires -
- "basic rate" means the rate defined and imposed under section 77(1)(a);
- "clerk to a council" means any person appointed as such under Part IX;
-
- "cognisable offence" shall have the same meaning as in section 2 of the Criminal Procedure Code;
- "committee" means a committee appointed under the provision of section 32 and shall include a committee appointed under section 33 and any sub-committee;
- "council" means a local government council established under section 3;
- "elected member" means a member of a council elected in accordance with section 6;
- "executive officer" means any person appointed as such under Part IX;
- "nominated member" means a member of a council appointed in accordance with section 7 or 8;
- "person resident" means, in relation to the area of authority of any council, a person ordinarily residing in such area;

Provided that a person shall not be held to have ceased to be so resident by reason only of a period of absence of less than 1 year:

And provided further that a person shall be held to be so resident who -

- (a) not being a public officer, is within Kiribati but absent from such area in fulfilment of any obligation incurred by him under a contract of employment which provides expressly, or impliedly, for his repatriation to such area upon the termination of the contract or the happening of some earlier event;
- (b) states himself, or is declared after determination, to have his domicile in such area, and who is for the time being a public officer serving, or person regularly employed, within Kiribati but outside the area of any council; in this paragraph "domicil" means the place of birth of the person whose domicil is in question, unless such person has a fixed habitation for himself and family in some other place, and the intention of making it his permanent home;
- (c) the wife or dependant of a person referred to in either paragraph (a) or (b) of this proviso and who is accompanying him while he is so absent, serving or employed, as the case may be;

"president" shall include vice-president and in sections 24, 25 and 31 shall include any other person presiding at any meeting of a council;

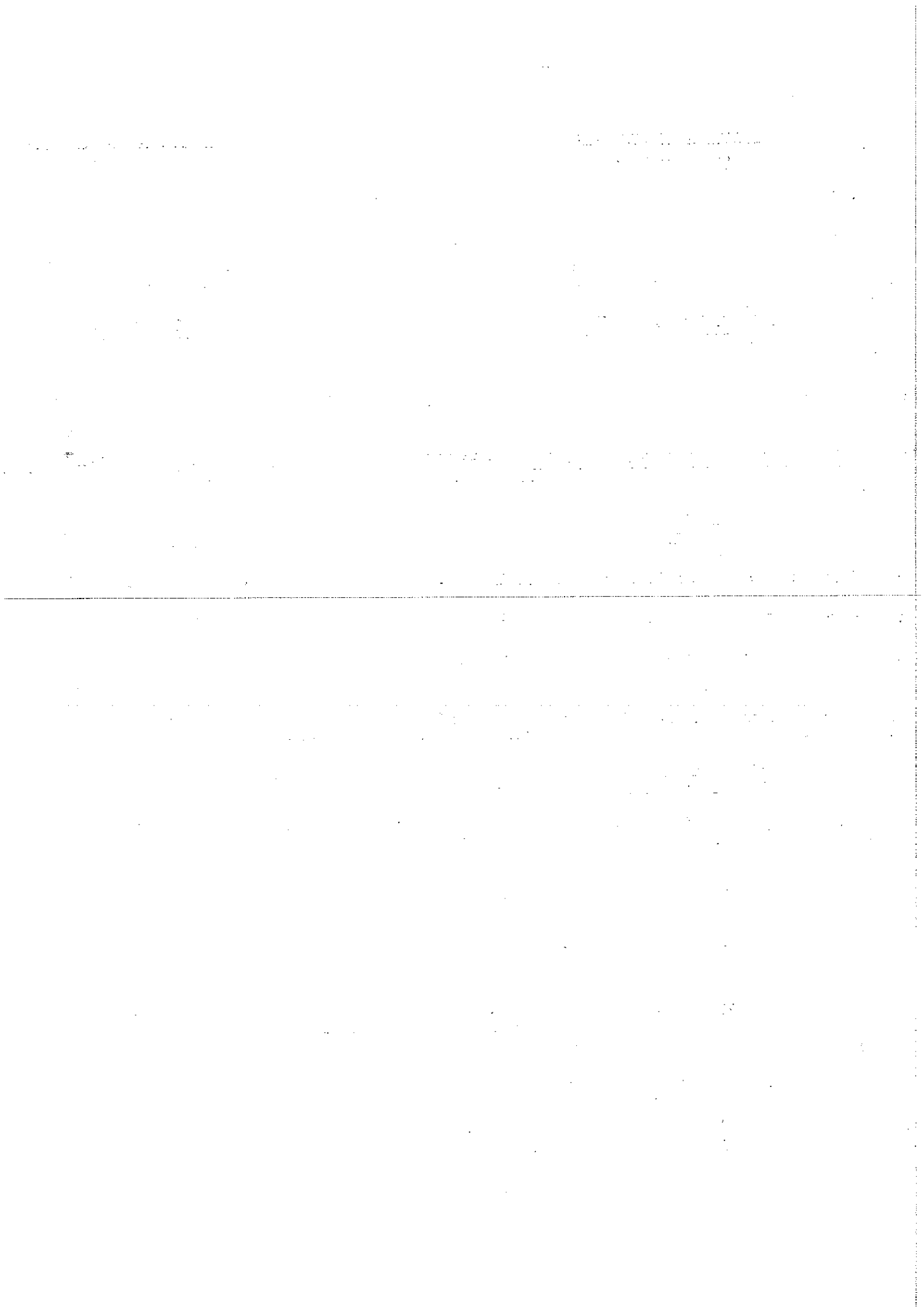
"rate" includes any rate, tax, duty, toll, due or assessment of whatever description whether public, general or local, and whether uniform or not;

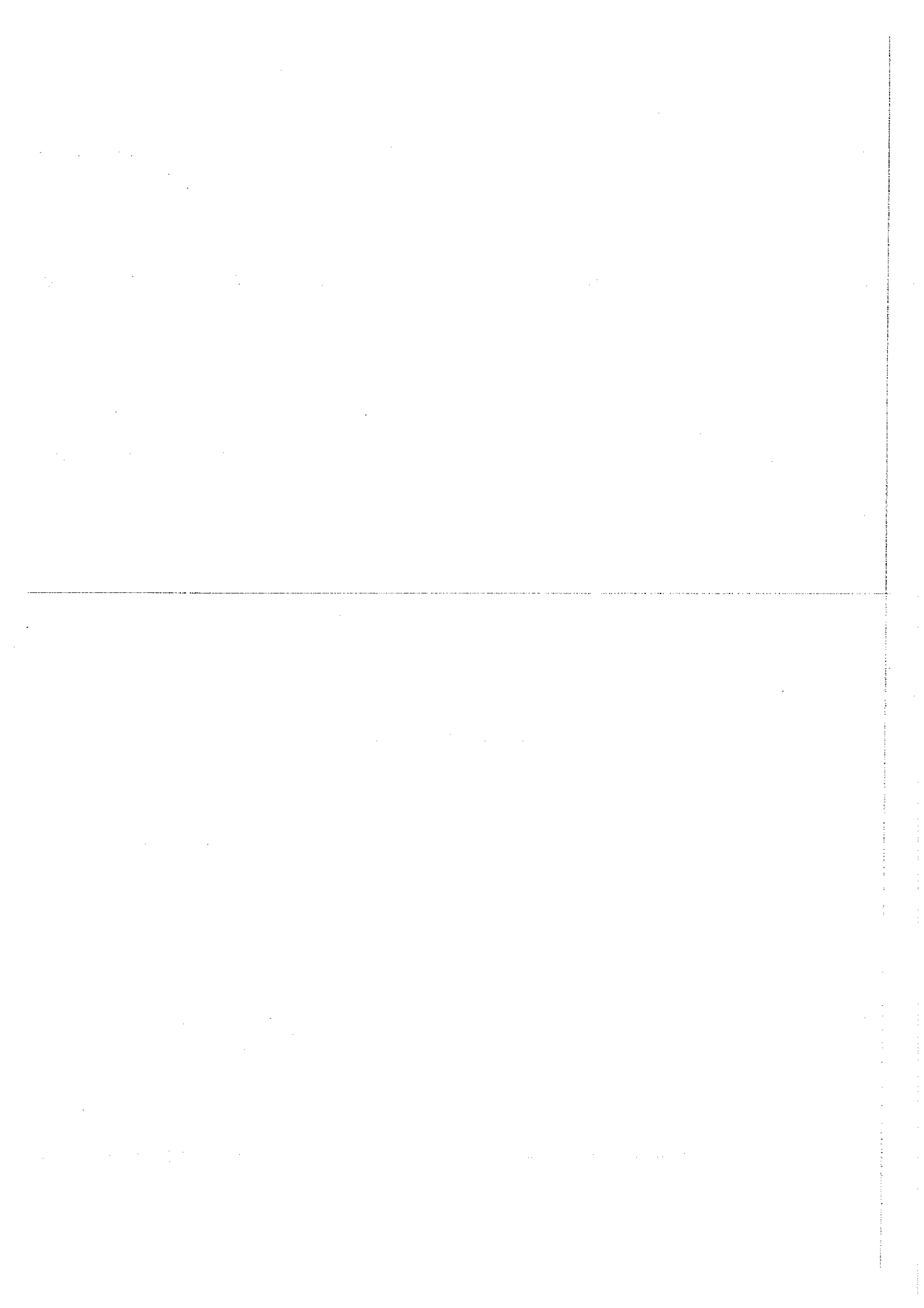
"resolution" means a resolution of the council duly passed, recorded and entered in the minutes in accordance with section 26;

"town council" means a council established in respect of an area described as a town in the warrant establishing the council;

"urban council" means a council established in respect of an area described as an urban area in the warrant establishing the council.

(2) For the purposes of this Act a person shall not be treated as holding, or acting in, a public office if he is on leave of absence pending relinquishment of a public office, or by reason only that he -





- (a) is receiving a pension or other like allowance for public service;
- (b) is receiving any remuneration or allowance as Beretitenti, Kauoman-ni-Beretitenti, Attorney General, Speaker, or a member of the Maneaba ni Maungatabu; or
- (c) holds or is acting in any office or place of profit in the gift or disposal of any council or of any board.

PART II
ESTABLISHMENT OF LOCAL GOVERNMENT COUNCILS

Establishment
of councils.

3. The Minister acting in accordance with the advice of Cabinet and after consultation with such persons who are and over 18 years of age and resident within the area of authority of such councils as are to be established, may by warrant under his hand establish such councils as he may deem necessary or expedient for the purposes of local government and may at any time by order amend, vary or cancel any such warrant.

Contents of
warrant.

4(1) A warrant establishing a council shall -

- (a) specify the name of the council and the date it shall be established;
- (b) prescribe the device of the seal of the council;
- (c) ~~define the limits of the area of the authority of the council, and such area shall, unless otherwise specified in the warrant, include the Kiribati waters adjacent to it;~~
- (d) provide for the number of elected members; and
- (e) specify the functions of the council.

(2) A warrant establishing a council may -

- (a) provide for the use of a rubber stamp in lieu of a seal until such time as a seal can be procured;
- (b) generally make such other provision not inconsistent with this Act as the Minister may deem necessary or expedient for the establishment and conduct of the council and the proper performance of its functions.

Incorporation
of councils.

5. Every council established under this Act shall be a body corporate having perpetual succession and a common seal and shall be capable in law of suing and being sued and of requiring, holding and disposing of movable and immovable property.

PART III
COMPOSITION OF COUNCILS AND ELECTIONS

Election of
elected members.
12 of 1977

6. All elected members of a council shall be elected by registered electors whose names appear on the register of electors for any ward of an electoral district constituted by the provisions of the Elections Ordinance 1977 which lies within the area of that council.

Ex-officio and
nominated mem-
bers of town
and urban
councils.

7. In the case of a town or urban council -

- (a) every elected member of the Maneaba ni Maungatabu for an electoral district the whole or part of which lies within the area of authority of the council shall be a member of the council ex-officio;
- (b) the council may by resolution appoint such persons as it considers suitable to be members of the council but the number of such nominated members shall in no case exceed one third of the number of elected members.

Ex-officio and
nominated mem-
bers of other
councils.

8. In the case of every council other than a town or urban council -

- (a) every elected member of the Maneaba ni Maungatabu for an electoral district the whole or part of which lies within the area of authority of the council shall be a member of the council ex-officio;
- (b) the council may by resolution appoint such persons as it considers suitable to be members of the council,

but in any case the number of ex-officio and nominated members together shall in no case exceed one third of the number of elected members.

Qualifications
and disqualif-
ications for
members of ele-
cted councils.

9(1) Subject to subsection (2) and (3), a person shall be qualified for election as a member of a council if he is entitled to be registered as an elector.

(2) A person shall be disqualified for election as a member of a council who -

- (a) is a public officer and has not received the written authority of the Minister to stand for election; or
- (b) unless authorised in writing by the Minister to stand for election, holds or is acting in any office in the gift or disposal of the council or a board; or

- (c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth; or
- (d) has within 5 years before the date of the election been surcharged under section 69 to an amount exceeding \$200; or
- (e) is disqualified from registering as an elector or from voting by virtue of the provisions of paragraphs (a) and (b) of section 8(1) of the Elections Ordinance 1977; or
- (f) is disqualified for membership of a council by any law for the time being in force in Kiribati relating to offences connected with elections.

12 of 1977

(3) For the purposes of this section and of section 11 -

- (a) a person employed by a committee; and
- (b) a person employed by 2 or more councils under the provisions of section 95,

shall be deemed to be a person holding or acting in or appointed to hold or act in an office or place of profit in the gift or disposal of the council concerned or of each of such councils, as the case may be.

Term of office of elected members of councils.

10(1) The term of office of the elected members of a council shall be 3 years from the date of election unless otherwise provided in this Act or in the warrant establishing the council; and such warrant may in particular provide for the retirement annually of one-third of the elected members of the council.

(2) Any person retiring under the provisions of subsection (1) may, if qualified, seek re-election for a further term of office.

(3) No person shall be elected to be a member of a council without his consent.

Tenure of office of elected members of councils.

11(1) Every elected member of a council shall, without prejudice to his re-election in accordance with this Act, cease to be a member of the council at the expiration of his term of office under section 10, or previously thereto if his seat becomes vacant under the provisions of this Act.

(2) The seat of an elected member of a council shall become vacant if -

- (a) by writing addressed to the president of the council he resigns his seat; or

- (b) he fails to attend 3 consecutive meetings of the council; or 3 consecutive meetings of any committee of the council; without having obtained before the termination of any such meeting the permission of the council; or; in the case of the meeting of any such committee, the permission of the council or of such committee; to be, or to remain, absent therefrom;
- (c) not having the authority in writing of the Minister to retain his seat, he is appointed to, or to act in, any public office;
- (d) not having the authority in writing of the Minister to retain his seat, he is appointed to, or to act in, any office or place of profit in the gift or disposal of the council or a board;
- (e) any circumstances arise that if he were not a member of the council would cause him to be disqualified for election as such by virtue of paragraphs (c), (d), (e) or (f) of section 9(2).

(3) Any person whose seat as an elected member of a council has become vacant may, if qualified, again be elected as a member of a council from time to time.

Tenure of office of nominated members of council.

12(1) Every nominated member of a council shall, without prejudice to his re-appointment in accordance with this Act, cease to be a member of the council on the revocation of his appointment by the council by resolution or at such time as may be specified in the notice by which he was appointed or previously thereto if his seat becomes vacant under the provisions of this Act.

(2) The seat of a nominated member of a council shall become vacant -

- (a) if by writing addressed to the President of the council he resigns his seat;
- (b) if he accepts nomination as a candidate for election to the council.

(3) Any person whose seat as a nominated member in a council has become vacant may again be appointed as a member of a council from time to time.

(4) The council by resolution may at any time revoke the appointment of a nominated member of a council.

Decision on questions as to membership. 12 of 1977

13. Subject to this Act and the Elections Ordinance 1977 all questions which may arise as to the right of any person to be or remain a member of a council shall be referred to and determined by the Minister whose decision shall be final.

Filling of
vacancies of
elected members.

14(1) Where a vacancy has occurred among the elected members of a council, a new member to fill such vacancy may be elected in the same manner as the person whose place he is to take was elected.

(2) A person elected under this section to fill a vacancy shall hold office until the date upon which the person in whose place he is elected would ordinarily have retired and he shall then retire.

President of
councils.

15(1) Every council shall have an elected president and an elected vice president.

(2) The president and vice president shall be

(a) elected by the council by secret ballot from among the elected members;

(b) elected for a term of office for such period as the council may determine in accordance with the standing orders made under section 29 of this Act but no such period shall exceed 3 years nor be less than 2 years;

(c) elected for a term of office for a period of 2 years where no standing orders are made under section 29 providing for the period referred to in section 15(2)(b) of this Act; and

(d) eligible for re-election.

(3) No candidate for the office of the president and vice-president shall preside over the election for which he is a candidate.

(4) No person shall be elected president or vice-president without his consent to be re-elected.

(5) A president or vice-president of a council at any time during his term of office may resign or may be removed by resolution of not less than two thirds of all the members of the council.

Filling of
vacancies of
president and
vice-president.

16. Whenever a vacancy occurs in the office of president or vice-president, an election to fill the vacancy shall be held at the next meeting of the council after the date on which the vacancy occurs. A person elected to fill such vacancy shall hold office until the date upon which the person in whose place he is elected would ordinarily have retired and he shall then retire but shall be eligible for re-election. In the temporary absence of both the president and vice-president the council may elect one of its members to act as president during such temporary absence.

Term of office. 17. Subject to subsection (2) of section 15 of this Act, the term of office of a president or vice-president shall ordinarily not exceed 3 years nor be less than 2 years from the date of his election; and unless he resigns or is disqualified such person shall be deemed to continue in office until his successor is elected.

Notification of names of president and vice-president. 18. The clerk to the council shall inform the Minister of the name and term of office of the persons elected to be president or vice-president of the council and shall cause such information to be published at the council's headquarters, and in some prominent place in each electoral ward.

PART IV
MEETINGS AND PROCEEDINGS OF COUNCILS

Number of meetings. 19. A council shall meet at such times and at such places as the president thereof shall determine:

Provided that if a council fails to meet at least twice in any 1 year it may be taken as just cause for suspension of the council under section 47.

Convening of meetings. 20(1) The president of a council may call a meeting at any time either on his own motion or upon requisition of one-third of the members of the council.

(2) If the president of a council refuses to call a meeting of the council after a written requisition to do so signed by one-third of the members of the council has been presented to him or if, without so refusing, such president does not, within 2 days after such requisition has been presented to him, call a meeting to take place within 3 weeks of the date of the requisition, the persons presenting the requisition may forthwith, on such refusal or on the expiration of 2 days, as the case may be, call a meeting of the council.

(3) 7 days at least before the day of any meeting called under subsection (1) or subsection (2) -

(a) notice of the time and place of the intended meeting shall be published at the office of the council and, where the meeting is called by members of the council, the notice shall be signed by those members and shall specify the business proposed to be transacted thereat;

(b) a summons to attend the meeting, signed by the clerk of the council shall be left at or sent by post to the usual place or abode of every member of the council and such summons shall, in the case of a meeting called by members of the council, state the business which they specified in the notice given by them as proposed

for transaction thereat, and in the case of any other meeting, the business which is proposed by the president for the transaction thereat:

Provided that want of service of the summons on any member shall not affect the validity of a meeting.

(4) No business shall be transacted at a meeting called by members of a council other than that specified by them in their notice relating thereto unless agreed to by resolution of a majority of the members present and voting thereon at the meeting.

Presiding at meetings.

21(1) Subject to section 15(2), the president shall, if present, preside at meetings of the council.

(2) If the president is absent from a meeting of the council the vice-president if present or, in his absence, such member as the members of the council present shall choose, shall preside.

Quorum.

22. No business shall be transacted at a meeting of a council unless at least one half of the whole number of the members of the council are present thereat.

Meetings.

23(1) Every meeting of a council shall, within the limits of available accommodation, be open to the public and to the duly accredited representatives of any newspapers:

Provided however that a council may at any time by resolution exclude the public or such representatives or one or the other of them.

(2) The proceedings of any committee of a council, or a joint committee, shall not be open to the public or to the representatives of any newspapers unless the council or councils appointing the committee or joint committee resolve to admit the public and duly accredited representatives of any newspapers or one or the other of them.

Decision on questions.

24(1) Subject to this Act and of the warrant establishing a council, all acts of a council and all questions coming or arising before a council shall be done and decided by a majority of the members present and voting thereon at a meeting of the council.

(2) The present of a council shall have an original vote and in the event of an equality of votes, shall have and exercise a second or casting vote.

(3) At the request of at least one-third of the members present at a meeting of a council the president shall order that the voting on any question before the council shall be conducted by secret ballot.

Breaches of order at meetings.

25(1) At any meeting of a council, if a member of the council shows disregard for the authority of the president or abuses the standing orders of the council by persistently and wilfully obstructing the business of the council or otherwise, the president shall direct the attention of the meeting to the incident mentioning by name the person concerned and may suspend such person from the exercise of his functions as a member of the council for the remainder of the meeting.

(2) In the case of grave disorder arising in any meeting of a council, the president may, if he thinks it necessary so to do, adjourn the meeting without question put or suspend any meeting for a time to be specified by him.

(3) The person presiding at any meeting of a committee may, if he thinks it necessary so to do, exercise the like powers as are conferred upon a president in relation to a council by subsections (1) and (2).

Minutes.

26(1) Minutes of the proceedings of every meeting of a council or of a committee shall be regularly entered in books kept for that purpose and shall be read and confirmed or amended, as the case may require, and signed by the person presiding at the same or next ensuing meeting of the council or committee, as the case may be, and any minute purporting to be so signed shall be received in evidence without further proof.

(2) The names of members of a council or of a committee present at a meeting of the council or committee as the case may be, shall be recorded in the minutes.

(3) Until the contrary be proved, a meeting of a council or of a committee, in respect of the proceedings whereof a minute has been made and signed as provided in subsection (1), shall be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been qualified and, where the proceedings are proceedings of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matter referred to in the minutes.

Minutes to be open to inspection.

27. The minutes of the proceedings of a council shall at all reasonable times be open to inspection and any person may obtain a copy thereof or an extract therefrom upon payment of such fee as may be specified by the council.

Vacancy, etc., not to invalidate proceedings.

28. The proceedings of a council or committee shall not be invalidated by reason of any vacancy among its members or the want of qualification of any member.

Standing orders.

29(1) Subject to this Act, a council may, with the approval of the Minister, make standing orders for the term of office of the president, regulation of its proceedings and business and may, subject to such approval, amend, vary or revoke such orders.

(2) Such standing orders may provide for the payment of an annual honorarium to the president of the council and travelling and attendance allowances to him and other members of the council.

Pecuniary
interest of
members.

30. If a member of a council or of any committee has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter and is present at a meeting of the council or the committee at which the contract or other matter is the subject of consideration, he shall at the meeting disclose such interest and shall not take part in the consideration or discussion of or vote on any question with respect to the contract or other matter and, if the president so directs, he shall withdraw from the meeting during such consideration or discussion:

Provided that this section shall not apply to an interest in a contract or other matter which a member of the council or committee may have as ratepayer or an inhabitant of the area.

Attendance of
non-members.

31. The president of a council may invite any person to attend and to speak upon any matter at any meeting of a council, but no such person shall vote upon any matter.

Appointment of
committees.

~~32(1) A council may appoint such committee as it may deem fit for any general or special purpose which, in the opinion of the council, would be better regulated or managed by means of a committee and may delegate to a committee so appointed, with or without restrictions or conditions as it thinks fit, any power or function without restrictions or conditions as it thinks fit, any power or function exercisable by the council, either with respect to the whole or any part of the area of authority of the council, except the power of making bye-laws, approving annual estimates, levying a rate or borrowing or lending money.~~

(2) A council may concur with any one or more other councils in appointing a joint committee of such councils for any purpose in which they are jointly interested and may delegate to such committee, with or without restrictions or conditions as they think fit, any power or function of the councils relation to the purpose for which the joint committee is formed except the power of making bye-laws, approving annual estimates, levying a rate or borrowing or lending money.

(3) The chairman and the number of members of a committee appointed under this section, their terms of reference, their term of office and the area within which the committee is to exercise its authority shall be specified by the council or councils, as the case may be, appointing the committee.

(4) A committee appointed under this section may include persons who are not council members, or may be authorised by the council or councils, as the case may be, appointing the committee to co-opt additional members not being council members:

Provided that at least two-thirds of the members of every such committee shall be council members.

(5) No person shall be appointed to be or be co-opted as a member of a committee appointed under this section except with his own consent.

(6) A committee appointed under this section may invite any person, including a council member who is not a member of the committee, to attend meetings and take part in the deliberations of the committee, but no such person shall vote upon any matter at any such meeting.

Special area committees.

33(1) Subject to this Act, a council may appoint such town, village or area committees within the area of its authority as it may deem necessary or expedient and may delegate to a committee so appointed, with or without restrictions or conditions as it thinks fit, any power or function exercisable by the council with respect to the area of authority of the town, village or area committee, except the power of making bye-laws, approving annual estimates, levying a rate or borrowing or lending money.

(2) The chairman and the number of members of a town, village or area committee appointed under subsection (1), their term of office and method of selection, and the area within which the committee is to exercise its authority shall be specified by the council.

Standing orders for committees.

34(1) Subject to this Act, a council appointing a committee (including any town, village or area committee) and councils which concur in appointing a joint committee may make, amend, vary and revoke standing orders respecting the quorum, proceedings or place of meeting of the committee or joint committee. Subject to any such standing orders, the quorum, proceedings and place of meeting shall be such as the committee or joint committee may determine.

(2) Without prejudice to the generality of the powers conferred by subsection (1), standing orders made under this section shall provide -

(a) that all acts of a committee or joint committee shall be done and decided by a majority of members present and voting thereon at a meeting of such committee or joint committee; and

(b) that the chairman or other person presiding at a meeting of a committee or joint committee shall, in the event of an equality of votes, have and exercise a second or casting vote.

(3) Standing orders made under this section shall not be inconsistent with the standing orders of the council concerned made under section 29.

Committees to report.

35. Every committee or joint committee appointed under the provisions of this Part shall report its proceedings to the council or councils appointing such committee.

PART V
FUNCTIONS OF COUNCILS

- Duty to discharge functions. 36(1) It shall be the duty of every council established under this Act to discharge the functions conferred by this or any other Act and generally to maintain order and good government within the area of its authority; and for these purposes a council may, within the limits of the functions so conferred, either by its own officers or by duly appointed agents do all such things as are necessary or desirable for the discharge of such functions.
- (2) Any function conferred upon a council shall be exercisable over all persons within the area of its authority save as is otherwise expressly provided in this Act or in any regulations or bye-laws made thereunder or in the warrant establishing the council.
- Prevention of crime. 37. It shall be the duty of every council to prevent the commission of any offence within the area of the authority by any person.
- Power to accept gifts. 38. A council may accept, hold and administer any gift of property for any public purpose or for the benefit of the inhabitants of the area of its authority or any part thereof and may execute any works (including works of maintenance and improvement) incidental to or consequential on the exercise of the powers conferred by this section.
- Fees. 39. A council may charge fees for any service or facility provided by the council or for any licence or permit issued by such council under the provisions of this Act or of any regulations or bye-laws made thereunder.
- Remission of fees, etc. 40. A council may for good cause authorise the remission in whole or in part of any fees or other charges imposed under the provisions of this Act or any regulations or bye-laws made thereunder.
- Power to contract. 41. A council may enter into any contract necessary for the discharge of any of its functions under this or any other Act.
- Insurance. 42. A council may insure all or any of its property against risks of any type and may insure itself and any of its members, officers or servants against any liability on account of loss of life or injury, or loss or damage of property, either, sustained or caused by any such member, officer or servant arising out of or in the course of his duty as such member, officer or servant.
- Provision of buildings by councils. 43(1) A council may --
(a) build, acquire, provide or hire and furnish buildings within the area of its authority to be used for the purpose of transacting the business of the council and for public meetings and assemblies; or

- (b) combine with any other council for the purpose of building, acquiring, providing or hiring and furnishing any such buildings; or
- (c) contribute towards the expenses incurred by any other council in building, acquiring, providing or hiring and furnishing any building within the area of the authority of such council suitable for use for any of the aforesaid purposes.

(2) A council may build, provide or hire and maintain quarters or houses for any officer or employee of -

- (a) the council; and
- (b) the Government posted for the time being to work within the area of authority of the council.

acquisition of
and dealings
in land.

44(1) A council may, for the purpose of any of its functions under this Act or any other Acts, by agreement acquire, whether by way of purchase, lease, gift or exchange, any land situate within or without the area of its authority, whether such land is immediately required or not:

Provided that a council shall not acquire land outside the area of its authority without the prior approval of the Minister.

(2) Where any land is required by a council for the purpose of any of its functions and by reason of disputes or doubts as to the ownership of the land required or inability of the parties to agree the terms or for any other cause the acquisition of the land is being hindered, the Minister may, on the application of the council concerned and on being satisfied that the purpose for which the land is required is of public benefit or importance, declare the land to be acquired for a public purpose under the provisions of the State Acquisition of Lands Ordinance, and direct the transfer of such land to the council on payment by the council of all expenses incurred and compensation paid in respect of the acquisition of such land.

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(3) Any land acquired under subsection (1) may, until it is required for the purpose for which it was acquired, be held and used for the purpose of any of the functions of the the council.

(4) Any land belonging to a council and not required for the purpose for which it was acquired may be appropriated for any other purpose, except that in the case of land compulsorily acquired under subsection (2) the consent of the Minister shall be required.

(5) The Minister may vest on such terms as he may deem just any State land in a council where in the opinion of the Minister it appears desirable to do so to enable the council to carry out its functions; and a council shall surrender the same to the Minister at any time when called upon to do so:

Provided that a council shall receive reasonable compensation for any improvements affected by it to any State land so surrendered.

Functions. / 45(1) A warrant establishing a council may provide that, subject to such limitations and conditions as may be specified therein, a council either shall perform or may perform all, any or any part of the functions listed in the Schedule.

Schedule.

(2) The Minister, acting in accordance with the advice of Cabinet may by order amend the Schedule.

(3) Nothing in this section shall be deemed to confer on any council authority to perform any act which would constitute a contravention of the terms of any Act.

Powers of public officers.

46. The Minister may by order direct that specified public officers, or categories of public officers, shall be deemed to be officers of any council for the purposes of giving effect to and enforcing any by-laws made by such council.

Power to enforce functions of councils.

47(1) If the Cabinet is satisfied that any council has made default in the performance of any function conferred or imposed upon it by or under this Act or any other Act for the time being in force, the Minister, acting in accordance with the advice of Cabinet, may make an order declaring the council to be in default and may, by the same or any other order -

(a) for the purpose of removing the default direct the council to perform such of its functions in such manner and within such time or times as may be specified in the order; or

(b) transfer to such person or body as the Minister, acting in accordance with the advice of Cabinet, may deem fit such of the functions of the council in default as may be specified in the order.

(2) If a council in respect of which an order has been made under subsection (1)(a) fails to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Minister, acting in accordance with the advice of Cabinet, may make an order under subsection (1)(b).

(3) Where an order has been made under subsection (1)(b), the Minister, acting in accordance with the advice of Cabinet, may by the same or any other order, dissolve the council or suspend the council for such time as he may think fit from the performance of such of its functions as may be specified in such order.

Expenses in respect of transferred functions.

48. Where any functions of a council are transferred to any person or body under the provisions of section 47(1)(b), the expenses incurred by such person or body in discharging those functions shall be a debt due from the council in default to such person or body, as the case may be.

Powers in
emergency.

49. In the event of any sudden disaster or emergency endangering the life or property of any persons within the area of authority of a council, the president shall make such decisions and take such steps as may be reasonably necessary to deal with the situation and may so act without prior reference to the council. In any such event, the president shall immediately report the circumstances to the Minister and to the council concerned.

PART VI
BYE-LAWS

Bye-laws.

50(1) A council may from time to time make and having made, amend, vary or cancel bye-laws, having the force of law in the area of authority of the council, for the carrying into effect and for the purposes of any function conferred upon it by virtue of this Act or any other Ordinance and may in such bye-laws specify a fine not exceeding \$100 or, in default of payment, imprisonment not exceeding 6 weeks for any breach of any such bye-laws and, in the case of a continuing offence, a further penalty not exceeding \$2 for each day on which the offence is continued after written notice of the offence has been served on the offender.

(2) Such bye-laws may further provide that, in addition to any penalty specified in subsection (1), any expense incurred by the council in consequence of any breach of the bye-laws or in the execution of any work directed by any bye-law to be executed by any person and not executed by such person shall be paid by the person committing such breach or failing to execute such work and shall be recoverable as a civil debt.

(3) Bye-laws may make provision for the payment of such fees or charges as shall to the council seem fit:

Provided that, if a council shall make bye-laws relating to the licensing of any occupation, trade, business or industry within the area of its authority, no person shall be required to take out a licence or to pay any licence fee for a licence entitling him to follow or exercise such occupation, trade, business or industry if such occupation, trade, business or industry is also required to be licensed under the provisions of any Ordinance for the time being in force.

(4) Any bye-law made by a council under this section shall be read and construed subject to the provisions of this Act and of any other law for the time being in force in Kiribati:

Provided that, where a bye-law makes provision for any matter for which provision is made in any other Ordinance for the time being in force, such bye-law shall not be deemed to be invalid unless there be any conflict between the provisions of such bye-law and such Ordinance, in which event the provisions of the Ordinance shall prevail.

(5) Any bye-law made under this Act may require acts or things to be performed or done to the satisfaction of a specified person and may empower a specified person to issue orders to any other person requiring acts or things to be performed or done, imposing conditions and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

(6) Any bye-law made under this Act may confer upon a council and any of its officers and employees specified in such bye-law such powers of inspection and inquiry and such power to execute any work as may be reasonably necessary for the proper carrying out or enforcement of such bye-law.

(7) Any bye-law may specify that it shall apply to the whole or any part of the area of authority of the council or to all or any class of persons in such area and, failing such specification, a bye-law shall be deemed to apply to all parts of the area of the authority of the council and to all persons therein.

Method of
making bye-
laws.

51(1) Bye-laws shall be made under the common seal of the council and shall be signed by the president after formal resolution of the council, the date of which shall be recorded in the bye-law.

(2) No council shall proceed to consider any proposed bye-law or amendment of any bye-law after its first reading until the next or subsequent meeting unless such bye-law is certified as urgent by the majority of all the members of the council present and voting.

(3) The proposed bye-law or amendment of a bye-law as the case may be referred to in subsection (2) of this section shall be publicised widely, debated and discussed at public meetings of persons resident within the area of authority of the council proposing or causing the making or amendment of such bye-law as the case may be.

(4) A bye-law made or amended under this Act shall not have effect unless and until approved by the Minister who, before approving, may amend the same. The Minister may approve or refuse to approve any bye-law and may in approving determine the date on which the bye-law is to come into operation.

(5) The Minister may, at any time after having given to a council reasonable notice and having considered the representations, if any, of the council thereon, make or amend any bye-law which such council is empowered by this Act to make, or cancel any bye-law made by such council.

Publication.

52(1) A copy of every bye-law when approved by the Minister shall be deposited at the office of the council by which the bye-law was made and shall at all reasonable times be open to public inspection without payment; and a copy thereof shall, on application, be furnished to any person on payment of such sum as the council may determine.

(2) Every bye-law approved under this Act shall be published by exhibiting publicly a copy of it, and a translation thereof in the vernacular approved by the Minister, at the office of the council by which the bye-law was made and shall come into operation on the date of such publication, or on such later date as may be specified; and the council may give such other notice as it thinks requisite for bringing it to the attention of the persons affected thereby.

Evidence of
bye-laws.

53. A copy of a bye-law purporting to be made by a council, upon which is endorsed a certificate purporting to be signed by the president or such other office of the council authorised in that behalf, stating -

- (a) that the bye-law was made and published by the council in the prescribed manner;
- (b) that the copy is a true copy of the bye-law; and
- (c) that on a specified date the bye-law was duly approved by the Minister and came into operation on a specified date,

shall be admitted in evidence in any court without further proof, and such certificate shall be evidence of the facts stated therein without further proof and without proof of the hand-writing or official position of the person purporting to sign the certificate.

PART VII FINANCIAL PROVISIONS AND AUDIT

Establishment
of council
funds.

54(1) Every council shall set up a general fund into which shall be paid all revenue and other moneys accruing to the council and from which shall be paid all expenditure properly and lawfully incurred by such council.

(2) Notwithstanding anything contained in this section a council may establish a special fund for any specific purpose.

Revenue of
councils.

55(1) The revenues or other funds of a council are hereby declared to be as follows -

- (a) all sums of money formerly vested in any council established under the Native Government Ordinance or the Town Councils Ordinance 1958 within or partly within the area of authority of a council;
- (b) revenue accruing to a council from the following sources -
 - (i) moneys derived from any rate imposed by the council by virtue of the provisions of this Act;

Cap 18 of 1952
5 of 1958

- (ii) moneys derived from licences, permits, dues, charges or fees specified by any bye-law made by a council;
- (iii) moneys payable to a council under the provisions of any other Ordinance;
- (iv) receipts derived from any public utility concern or any service or undertaking belonging to or maintained by a council either in whole or in part;
- (v) rents derived from the letting or leasing of any building or land belonging to a council;
- (vi) grants-in-aid out of the Consolidated Fund or other public revenue;
- (vii) any particular public revenue which may lawfully be assigned to a council;
- (viii) any sums of money which may lawfully be assigned to a council by any public corporation;
- (ix) interest on the invested funds of a council;
- (x) moneys which may accrue from loans received under section 57;
- (xi) moneys granted to a council by way of gift for any public purpose or for the welfare of all or any of the inhabitants of the area of authority of the council;
- (xii) all moneys derived from tax collected under the Landowners Taxation Ordinance;
- (xiii) registration fees under the Dogs Ordinance due and payable within the area of authority of a council; and
- (xiv) notwithstanding section 17 of the Licences Ordinance, stores' and hawkers' licences issued under the said Ordinance due and payable within the area of authority of a council.

(2) Any other moneys lawfully derived by a council from any other source whatsoever not hereinbefore specifically mentioned shall be and form part of the revenue and funds of such council.

Expenditure.

56. Subject to this Act, a council may incur all expenditure necessary for and incidental to the carrying out of any functions conferred upon it under this or any other Ordinance or by the warrant establishing such council.

hp. 49

Cap. 46 of 1973

Cap. 56 of 1973

Power to borrow money. 57(1) A council may from time to time, in accordance with a resolution of the council in that behalf, raise loans within Kiribati of such amounts, from such sources, in such manner, for such purposes and upon such conditions as the council may approve.

(2) Such loans shall be charged indifferently upon all rates and revenues of the Council, and shall be repaid within such period as the council may by resolution determine.

Overdraft. 58. A council may obtain advances from banks by overdraft charged indifferently upon all the rates and revenues of such council.

Power to lend money. 59. A council may from time to time, in accordance with a resolution of the council in that behalf, lend money within Kiribati of such amounts, from such sources, in such manner, for such purposes and upon such conditions as the council may impose.

Investments of funds. 60. A council may invest all or any portion of the moneys of the council in such investments as the council may by resolution from time to time approve.

Deposit and advance accounts. 61. A council may by resolution make advances and operate deposit and suspense accounts.

Accounts to be kept. 62. Every council shall keep proper accounts and other records in relation thereto and immediately after the end of each financial year shall cause its accounts for that year to be brought to a balance and a balance sheet to be prepared with respect thereto, together with a statement or abstract of such accounts.

Financial instructions. 63. The Minister acting in accordance with the advice of Cabinet shall issue written instructions (to be called Financial Instructions) not inconsistent with this Act, for regulating and for controlling the making of receipts and payments of councils, for regulating and controlling operation of the bank accounts of councils and for the better control and management of the financial business of councils; and such instructions may be issued either generally or with respect to any particular council or with respect to the councils in any particular area and shall be observed and obeyed by the council or councils with respect to which such instructions have been issued.

Estimates of councils. 64(1) Every council shall, not less than 2 months before the expiry of each financial year, pass detailed estimates of revenue and expenditure of the council for the next financial year.

(2) Such estimates shall be passed by formal resolution at a meeting of the council specially convened for the purpose and shall be submitted to the Minister for approval as soon as possible thereafter.

(3) The Minister may either approve or disapprove such estimates as a whole or disapprove, amend or reserve any item or items contained therein and shall notify the council accordingly:

Provided that, if such notification is not received by the council before the commencement of the financial year for which such estimate is prepared, the council may incur expenditure on recurrent heads of expenditure in accordance with the approved estimates for the previous year.

(4) The Minister may by Financial Instructions issued under section 63 of this Act and imposing such conditions as he deems fit, empower any council to appropriate supplementary sums if in respect of any financial year it is found by any such Council that expenditure for any specified purpose is desirable and no or insufficient provision therefor has been made in the estimates for such year.

(5) No council shall collect revenue or incur expenditure which has not been approved in accordance with this Act except with the sanction of the Minister; and any council member, officer or servant who has applied or connived at or concurred in the collection or application of moneys for purposes which have not been lawfully approved shall be liable to be surcharged and to account for such moneys.

(6) The annual estimates and all supplementary estimates shall be submitted in such form and manner and shall contain such information as may be specified in Financial Instructions issued under section 63.

Joint funds.

65. A joint committee appointed under section 32(2) may, with the approval of and subject to any conditions imposed by the councils appointing the committee, operate a fund in accordance with this Part and to such extent such committee shall be deemed to be a council.

Access to records of councils.

66. The Minister may authorise any person to have access to the records of any council; and any person so authorised shall at all reasonable times have access to and be entitled to inspect all books, accounts and records of the council and may advise the council thereon and submit reports to the Minister in connection therewith.

Audit of accounts.
Cap. 79

67. The powers conferred and the duties imposed by this Part shall be in addition to and shall in no way derogate from the powers conferred and the duties imposed by the Public Finance (Control and Audit) Ordinance.

Transmission of reports, etc.

68. The Director of Audit shall transmit to the Minister and to the Minister responsible for finance together with every report prepared by him on the examination and audit of the accounts kept by a council the annual statement or abstract of such accounts prepared under section 62 and shall transmit a copy of every report to the council.

Powers and duties of Director of Audit.

- 69(1) The Director of Audit at every audit held by him may -
- (a) disallow any item of expenditure which is contrary to law;
 - (b) surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorising the expenditure;
 - (c) surcharge any sum which has not been duly brought into account upon the person by whom that sum ought to have been brought into account;
 - (d) surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred:

Provided that no item of expenditure incurred by a council shall be disallowed by the Director of Audit if it has been sanctioned by the Minister.

(2) It shall be the duty of the Director of Audit -

- (a) to certify the amount due from any person upon whom he has made a surcharge; and
- (b) to certify at the conclusion of the audit his allowance of the accounts, subject to any disallowances or surcharges which he may have made.

Special relief for officers and servants.

70. Notwithstanding section 69, no liability to surcharge shall be incurred by an officer or servant of the council who can prove to the satisfaction of the Director of Audit that he acted in pursuance of and in accordance with the terms of a resolution of the council or a committee duly appointed by the council or on instructions of any officer of the council to whom he is subordinate.

Director of Audit may take evidence. Cap. 79

71(1) For the purposes of any examination under this Part the Director of Audit or other person duly authorised by him under section 30(1) of the Public Finance (Control and Audit) Ordinance may take evidence and examine witnesses upon oath or affirmation (which oath or affirmation the Director of Audit or other person so authorised is hereby empowered to administer) and may, by summons under his hand, require all such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers, including the minutes of the proceedings of the council or of any committee thereof, as he may consider necessary for such examination:

Provided that no person shall be bound to incriminate himself and every witness shall in respect of any evidence given by him before the Director of Audit or other person so authorised be entitled to the same privileges to which he would have been entitled if giving evidence before a court.

(2) Any person who, when so required, without reasonable excuse

- (a) neglects or refuses to comply with the terms of such summons; or
- (b) having appeared, refuses to be examined on oath or affirmation or to take such oath or affirmation; or
- (c) having taken such oath or affirmation, refuses to answer such questions as are put to him,

shall be liable for every such neglect or refused, to a fine of \$100, or in default of payment, to imprisonment for 3 months.

Payment of
sums certi-
fied to be
due.

72. Every sum certified by the Director of Audit to be due from any person shall be paid by that person to the council concerned within 60 days after it has been so certified or, if an appeal with respect to that sum has been made, within 30 days after the appeal is finally disposed of or abandoned or fails by reason of the non-prosecution thereof.

Recovery of
sums certi-
fied to be
due.

73(1) Any sum which is certified by the Director of Audit to be due and has become payable shall, on complaint made by the council be recoverable by the council as a civil debt.

(2) In any proceedings for the recovery of such a sum a certificate signed by the Director of Audit shall be conclusive evidence of the facts certified and a certificate signed by the president of the council concerned or other officer whose duty it is to keep the accounts that the sum certified to be due has not been paid to him shall be conclusive evidence of non-payment, unless it is proved that the sum certified to be due has been paid since the date of the certificate.

(3) Unless the contrary is proved, a certificate purporting to be signed by the Director of Audit or the president of the council or other officer whose duty it is to keep the accounts shall be deemed to have been signed by the Director of Audit, president or other officer, as the case may be.

Appeals
against deci-
sions of
Director of
Audit.

74(1) Any person who is aggrieved by a decision of the Director of Audit on any matter with respect to which he made an objection at the audit and any person aggrieved by a disallowance or surcharge made by the Director of Audit may appeal to a magistrates' court, unless such decision, disallowance or surcharge relates to an amount exceeding \$3,000 in which case an appeal shall be to the High Court:

Provided that no appeal shall be allowed unless, within 60 days of the date of decision or the certificate of disallowance or surcharge of the Director of Audit, as the case may be, the appellant serves upon the Director of Audit a notice of appeal and files such appeal in the magistrates' court or the High Court, as the case may be, in conformity with any rules of court relating thereto.

(2) A magistrates' court or the High Court on such appeal shall have power to confirm, vary or quash the decision of the Director of Audit and to remit the case to the Director of Audit with such directions as it thinks fit for giving effect to the decision on appeal; and, if the decision of the Director of Audit is quashed or is varied so as to reduce the amount of surcharge to \$200 or less, the appellant shall not be subject by reason of the surcharge to the disqualification imposed by section 9 or section 11.

Publication of statement of accounts and report of Director of Audit.

75. Every council shall, within 6 months of the receipt of the Director of Audit's report, at its own offices publish -

- (a) the annual balance sheet and statement or abstract of accounts prepared under section 62; and
- (b) any report on such accounts and statement or abstract transmitted by the Director of Audit under section 68.

PART VIII RATES

Rating authority.

76. For the purposes of this Act every council shall be the rating authority for the area of its authority and, subject to section 57 or except as may be otherwise specifically provided in this Act or any other Ordinance, no authority other than the council shall have power to make or levy any rate in the area of authority of such council, notwithstanding any customary law to the contrary.

Types of rate.

77(1) Subject to the approval of the Minister and to any regulations made under section 79, a council may make and levy annually general rates based on any one or more of the following systems, that is to say -

- (a) a rate, which may be referred to as the basic rate, at a uniform or graduated amount per capita on any person or persons, of or above the age of 18 years being persons resident within the area of its authority;
- (b) a rate at a uniform amount per dollar on the assessed value of immovable property situated within the area of its authority or any part of such area;
- (c) a rate assessed on the possessions or any category of possessions of persons within the area of its authority or any part of such area.

(2) In addition to making and levying a general rate under subsection (1) a council may, subject to the approval of the Minister and to any regulations made under section 79, make and levy a rate which may be referred to as a special rate, at a uniform or graduated amount per capita on any person or class or person resident within the area of its authority or any part of such area in order to provide for some specific purpose within such area or any part of such area; and may make and levy a rate, which may be referred to as a water rate.

Duty to make rates.

78. Unless a formal resolution to refrain from so doing shall have been passed by the council, every council shall make and levy one or more of the rates specified in section 77(1); as will be sufficient to provide for such part of the total estimated expenditure to be incurred by the council during the period in respect of which the rate is made as is to be met out of moneys raised by rates, together with such additional amount as is, in the opinion of the council, required to cover expenditure previously incurred or to meet contingencies or to defray any expenditure which may fail to be defrayed before the date on which the money to be received in respect of the next subsequent rate will become available.

Rating regulations.

79. Subject to section 80, the Council with the approval of the Minister may make regulations providing generally for the making and levying of rates by the council on persons resident or temporarily resident in the area of authority of such council and, without prejudice to the generality of the foregoing, providing in particular for -

- (a) the basis and incidence of any rate to be levied under section 77;
- (b) the notice to be given by a council of its intention to make and levy a rate;
- (c) the procedure for the appointment of assessment committees appointed under section 94 and the procedure, powers and duties of such committees;
- (d) the method of assessment of property or possessions for the purposes of any rate to be levied under this Act;
- (e) the hearing of appeals against any such assessment;
- (f) the preparation of rating rolls and the rendering of returns by or the registration of persons liable to pay any rate;
- (g) the dates and places for the payment of any rate;
- (h) to whom payment shall be made;
- (i) the exemption of any category of persons from liability to pay the whole or any part of any rate;
- (j) the imposition of pecuniary penalties for non-payment or late payment of any rate.

Basic rate.

80(1) Notwithstanding any regulations made under section 79, this section shall apply to the making, levying and payment of a basic rate imposed under section 77(1)(a).

(2) (a) Any person or or above the age of 18 years on the 1st January in every year or 1 month after the publication by the Council of a notice given under regulations made hereunder of the basic rate to be levied, whichever is the later, become liable, unless generally or specifically exempted, to pay the basic rate (if any) imposed by the council in the area of authority of which he is a person resident on such 1st January.

(b) Any person who, being so liable, fails to pay such basic rate on or before the 30th June in the year to which the rate relates or 6 months after the publication of the notice referred to in paragraph (a), whichever is the later, shall become liable in addition, unless generally or specifically exempted, to pay a penalty of \$2.

(3) (a) Notwithstanding subsection (2), any person temporarily resident in the area of authority of a council which has imposed a basic rate may, in lieu of paying the basic rate of the council to which he is liable under subsection (2)(a), pay the basic rate of the council in the area of authority of which he is temporarily resident; and such council shall remit such basic rates, less a collection fee not exceeding 10 per cent of the rate, to the council in the area of authority of which such person is a person resident.

(b) Any person temporarily resident in the area of authority of a council who, being liable to pay, fails on or before the 30th June or 6 months after the publication of the notice referred to in subsection (2)(a), whichever is the later, to pay either the basic rate to which he is liable under subsection (2)(a) or the basic rate of the council in the area of authority of which he is temporarily resident under paragraph (a) of this subsection, shall become liable, unless generally or specifically exempted, to pay the basic rate of the council in the area of authority of which he is temporarily resident at any subsequent date together with any penalty accruing thereon; and such council shall remit the rate less any penalty accruing thereon (which may be retained by such council to the council to which the basic rate was due and payable under subsection (2)(a)).

(4) Notwithstanding the other provisions of this section, a person visiting Kiribati for a period of less than 6 months shall not be liable to pay a basic rate.

Payment of rates.

81(1) (a) Subject to any regulations made under section 79, it shall be the duty of every person liable to pay any rate to a council to pay the amount of such rate to a rate collector or other person duly appointed or authorised by the council concerned to collect and receive the same at such time and at such place as may from time to time be specified by the council.

- (b) If no person has been appointed or authorised to collect and receive rates, the payment of rates shall be made to the clerk to the council.
- (c) If no time nor place for payment shall have been specified the time shall be deemed to be on or before the 30th April in every year and the place shall be deemed to be the usual place of office of the clerk to the council.

(2) For the purposes of any proceedings for the recovery of any rate imposed under this Act, if any question arises as to whether or not a person is under a specified age, or resides in the area of authority of any particular council, or has or has not any income of any particular amount, the burden of proving that he is under such age, or does not so reside, or has no such income shall lie upon the person alleging the same.

Exemptions
from and
remissions of
rates.

82(1) Notwithstanding any other provisions of this Act, if any person, who would otherwise be liable for payment of a basic rate to any council, produces to the executive officer to such council or to a rate collector appointed by such council a valid receipt issued by or on behalf of any other council in evidence of the payment by him of a basic rate levied by such other council for the current year, being a basic rate which he was liable to pay under this Act, he shall be deemed not to be liable for payment of the basic rate for such year levied by such first-mentioned council.

(2) The following tenements shall be exempt from assessment and rating under this Act -

- (a) lands and buildings appropriated exclusively for the purpose of public worship;
- (b) cemeteries and burial grounds;
- (c) charitable and educational institutions; and
- (d) any other immovable property specifically or generally exempted by the Minister by order.

(3) A council may reduce or remit payment of any rate on account of the poverty of any person liable to the payment thereof or for any other good reason.

(4) Subject to any regulations made under section 79 a council may exempt women from the liability to pay any rate.

Claim for
amount of
rate.

83. If any person fails to pay any rate for which he is liable on or before the date on which it is payable, the council concerned may recover the same as a civil debt together with such costs and such penalty as may be prescribed under this Act or any regulations made thereunder:

Provided that no demand shall be made for any rate or penalty nor shall any proceedings for the recovery thereof be commenced more than 3 years after the date on which such rate became due and payable.

Evidence of rate.

84. In any proceedings to recover a rate levied under this Act the rate books and other records of the council concerned and all certified copies of entries made therein purporting to be signed by the president of the council shall, upon production thereof, be prima facie evidence of such rate and of the matters stated therein without further evidence that the requirements of this Act have been complied with:

Provided that it shall be competent for any person proceeded against to offer evidence to prove the contrary.

Penalty for refusal to pay rates and wilful misrepresentation.

85(1) Any person who, without lawful justification or excuse, the proof of which shall lie on the person charged, refuses or wilfully neglects to pay any rate payable by him under the provisions of this Act, shall be liable to a fine of \$100 and to imprisonment for 6 months.

(2) Any person who wilfully misrepresents in any way his rateable capacity shall be liable to a fine of \$100 and to imprisonment for 6 months.

(3) The conviction of any person of an offence under subsection (1) shall not affect, bar, prejudice or limit the power to bring any civil proceedings for the recovery of any rate under section 83; and a person so convicted shall remain liable for the payment of such rate notwithstanding that he has paid any fine or served any sentence imposed upon such conviction; nor shall such conviction affect, bar, prejudice or limit the power to lay a further charge under subsection (1) for a separate offence of refusal or wilful neglect to pay such rate subsequent to the date of such conviction.

Penalty for inciting a person to refuse to pay rates.

86. Any person who, without lawful justification or excuse, the proof of which shall lie on the person charged, incites any person to refuse to pay any rate payable by him under the provisions of this Act or who incites or assists any person to misrepresent in any way his or any other person's rateable capacity shall be liable to a fine of \$200 and to imprisonment for 12 months.

Penalty for unauthorised collection of rates.

87. Any person who -

- (a) not being authorised under this Act or by the council concerned so to do, collects or attempts to collect any rate imposed under this Act; or
- (b) collects or attempts to collect any rate other than a rate prescribed in this Act or authorised by any other Ordinance,

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

Duty to give information.

88(1) Any person who may be required so to do shall give all such information as may reasonably be required of him by any council, rate collector or assessment committee for the purpose of obtaining information for the assessment or collection of a rate.

(2) Any person having been required to give information under subsection (1) who wilfully misleads or attempts to mislead any council, rate collector or assessment committee or their agents on any matter connected with the collection of a rate shall be liable to a fine of \$100 and to imprisonment for 6 months.

(3) Any person having been required to give information under subsection (1) who refuses or wilfully neglects to give such information shall be liable to a fine of \$100 or, in default of payment, to imprisonment for 6 months.

Rate collectors and duties.

89(1) A council may in writing appoint any suitable person to be a rate collector in respect of any specified area within the council's area of authority.

(2) It shall be the duty of every rate collector -

(a) to furnish orally or in writing to the council concerned a nominal roll of all rateable persons or immovable property, as the case may be, in the area for which he has been appointed;

(b) to collect and receive from each person liable for the payment of rates in the area to which he has been appointed the rates payable by each such person;

(c) to pay all amounts so collected to the council concerned; and

(d) to report to the council concerned the name of any person who has failed to pay the amount due from him for rates.

Offences by rate collectors.

90. Any rate collector who -

(a) fails to deposit with the council concerned any sum of money collected by him as rates; or

(b) knowingly demands from any person an amount in excess of the duly assessed rates; or

(c) knowingly or recklessly renders false returns, whether orally or in writing, of the number of ratepayers or the amounts of rates collected or received by him; or

(d) wilfully fails to carry out any duty imposed upon him as a rate collector by section 89(2),

shall be liable to a fine of \$200 and to imprisonment for 12 months.

Assessment committees.

91. A council may appoint such assessment committee or committees as it thinks fit for the purpose of assessing the liability of any person or persons for payment of any rate levied or to be levied under the provisions of this Act.

Legal proceedings.

92. Proceedings for the recovery of any rate or penalty under this Part may, without prejudice to the right of any other person or authority to institute criminal proceedings, be taken by the president of the council responsible for the collection of the rate or by any other person duly appointed by him in that behalf.

PART IX
OFFICERS AND STAFF, ETC

Executive officers of councils.

93. The Minister after consultation with the council concerned may appoint from among public officers or employees one or more such officers or employees to each council and the sole or senior executive officer to any council shall be called the clerk to the council.

Other staff.

94(1) The Minister after consultation with the council concerned may appoint from among public officers or employees a treasurer to any council who shall be called the council treasurer.

(2) Subject to any instructions under section 101, a council may appoint such other officers in addition to those appointed by the Minister under this section and employ such other persons as it shall think necessary for the efficient discharge of its functions and may, subject as aforesaid, dismiss any officer so appointed or other person so employed.

(3) A council may, subject to any instructions as aforesaid, pay to any officer appointed or other person employed under this section such reasonable remuneration as it may determine:

Provided that no council shall pay any remuneration to any such officer or other person whose remuneration is paid by the Government.

Joint appointments and employment by councils.

95. A council may agree with any one or more councils on the joint employment of any staff or the appointment of any officer.

Interest of officer in contract.

96. Any officer or employee of a council who is in any wise concerned or interested directly or indirectly by himself or his partner (otherwise than as a minority shareholder in a company) in any contract or work made with or executed for the council shall forthwith declare such concern or interest to the council:

Provided that this section shall not apply to an interest in a contract or other work which an officer or employee of a council may have as a ratepayer or inhabitant of the area.

Appointment
of seconded
public
officers.

97. Notwithstanding the other provisions of this Part a council may, with the approval of the Minister and with the consent of the officer concerned, appoint to any office in its service a public officer or employee seconded to the service of the council for that purpose, for such period and on such terms and conditions as the Minister may approve.

Security may
be demanded
of officers.

98. A council may, in the case of an officer or person, other than a public officer appointed under section 97, in its employment, whether under this Act or any other Ordinance and whether appointed or employed jointly with another council or not, or, in the case of a person not in its employment but who is likely to be entrusted with the custody or control of money or property belonging to the council, either require him to give or itself take such security for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him as the council thinks sufficient.

Accountability
of officers.

99(1) Every officer employed by a council, whether under this Act or any other Ordinance, shall, at such times during the continuance of his office or within 3 months after his ceasing to hold it and in such manner as the council directs, make out and deliver to the council, or as it directs, a true account in writing of all money and property committed to his charge and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connection with his office, showing the amount due from or to each.

(2) Every such officer shall pay all money due from him to the council, or otherwise as such council may direct.

(3) If any such officer --

(a) refuses or wilfully neglects to make any payment which he is required by this section to make; or

(b) after 3 days' notice in writing signed by the president of the council or by 3 members thereof and given or left at his usual or last known place of residence, refuses or wilfully neglects to make out or deliver to the council, or as it directs, any account or list which he is required by this section to make out and deliver, or any voucher or other document of record relating thereto, or to give satisfaction respecting it to the council, as it directs,

a magistrates' court may, on complaint, order him to make such payment or delivery or to give such satisfaction.

(4) Any person who fails to comply with any such order shall be liable to a fine of \$100 and to imprisonment for 6 months.

(5) Nothing in this section shall effect any remedy by action against any such officer or his surety, except that the officer shall not be both sued by action and proceeded against under the provisions of this section for the same cause.

Powers of interdiction.

100. Subject to any instructions issued under section 101, the president of a council may interdict any officer or employee of the council from the duties and emoluments of his office or employment for incapacity, neglect or misconduct, pending the decision of the council as to his removal and, in the event of his removal, such officer or employee shall be deemed to have been removed from office or employment as from the date of such interdiction:

Provided that no public officer or employee seconded or appointed by the Government to any office or post in any council shall be subject to the provisions of this section nor section 101 of this Act.

Staff instructions.

101. Subject to this Act a council by resolution may issue written instructions (to be called Staff Instructions) providing, either generally or in relation to any particular officer or employee, for the employment, control and conditions of service of officers and employees in particular, without prejudice to the generality of the foregoing, such instructions may -

- (a) provide for maintaining discipline, including withholding or deferring of increments, or reduction in rank or salary, or deductions from salary in respect of damage to or loss of property of the council by misconduct or breach of duty;
- (b) require, direct and regulate appointments, remuneration, promotion, termination of appointments, interdiction, suspension from duty, dismissals and leave;
- (c) provide for regulating the rates, conditions and payment of allowances and gratuities granted, the grant of advances and the terms and conditions of service generally;
- (d) such other matters relating to departmental procedure and the duties and responsibilities of officers and employees as the council considers can best be regulated by such instructions.

A council an employer in terms of Cap. 78A.

102. Subject to section 103, section 104 and section 105 of the Constitution, for the avoidance of any doubt every council established under this Act shall be deemed to be an employer for the purposes of Part IV and any other relevant provisions of the Provident Fund Ordinance.

Attachment of pensions, gratuities or allowances.

103. No pension, gratuity or other allowance granted in pursuance of this Part shall be assignable or transferable, or liable to be attached or sequestered, or levied upon, for or in respect of any debt or claim whatsoever:

Provided that this section shall not affect the right of the council or the Government to recover from any sums due or payable to or in respect of any officer or employee any amount owing to the council or the Government by such officer or employee.

Protection of council members, officers and employees.

104. No matter or thing done and no contract entered into by a council and no matter or thing done by any member, officer or employee of a council or other person whomsoever acting under the direction of a council shall, if the matter or thing was done or the contract was entered into bona fide for the purposes of this Act, subject any member, officer or employee of the council or any person acting under the direction of the council personally to any action, liability, claim or demand whatsoever.

PART X LEGAL PROVISIONS

Notice of suit to be given by plaintiff.

105(1) No suit shall be commenced against a council until 1 month at least after written notice of intention to commence the same has been served upon the council by the intending plaintiff or his agent.

(2) Such notice shall state the cause of action, the name and address of the intending plaintiff and the relief which he claims.

Limitation of suits against councils.

106. When any suit is commenced against any council for any act done in pursuance or execution of an Ordinance or of any public duties or authority, or in respect of any alleged neglect or default in the execution of any such Ordinance, duty or authority, such suit shall not lie or be instituted unless it is commenced within 12 months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury, within 12 months next after the ceasing thereof.

Appearance of council in legal proceedings.

107. In any prosecution by or on behalf of a council and in any civil cause or matter in which a council is a party the council may be represented by any member, officer or employee duly authorised in that behalf by the council.

Mode of service on council.

108. The notice referred to in section 105 and any summons, notice or other document authorised to be served on a council in connection with any suit by or against such council shall be served by delivering the same to or by sending it by registered post addressed to the president at the principal office of the council:

Provided that the court may with regard to any particular suit or document order service on the council to be effected otherwise and in that case service shall be effected in accordance with the terms such order.

Description of property.	109. Wherever in any criminal process or proceeding it is necessary to refer to the ownership or description of property belonging to or under the management of a council, such property may be described as the property of the council.
Name of council, etc., need not be proved.	110. In any proceedings instituted by or against a council it shall not be necessary to prove the corporate name of the council or the constitution and limits of its area.
Onus of proof in certain cases.	111. Where in any proceedings under this Act any person is summoned or otherwise dealt with as the occupier of any premises or lodging and such person shall allege that he is not the occupier, the proof of such allegation shall be upon such person.
Powers of entry.	112. Subject to this Act or any other Ordinance, any member, officer or servant of a council duly authorised in writing for the purpose by the council may, at all reasonable times and, if required, upon production of his authority, enter into or upon any land, buildings or premises within the area in which such council is established for the purpose of carrying out any inspection, inquiry or the execution of works under the provisions of this Act or of any regulation, bye-law or order made under the provisions of this Act.
Publication of notices.	113. Save as in this Act is otherwise expressly provided, the publication of any notice or other document required by this Act to be published shall be deemed to be duly made if it is fixed, for a reasonable time, in some conspicuous place on or near the outer door of the office of the council during office hours and also in some other conspicuous place or situation within the area of the authority of the council.
Service of notice by the council.	114(1) Subject to this section, any notice, order or other document required or authorised by this Act or any other Ordinance to be served by or on behalf of a council or by an officer of the council on any person shall be deemed to be duly served - <ul style="list-style-type: none">(a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business and is either -<ul style="list-style-type: none">(i) sent by registered post; or(ii) delivered at the registered office or at the principal office or place of business of the company;(b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name and style under which its business is carried on, and is either -

- (i) sent by registered post; or
- (ii) delivered at that office;

89 (c) where the person to be served is a public body, a local authority, or a corporation, society or other body, if the document is addressed to the clerk, president, secretary, treasurer or other principal officer of that body, authority, corporation or society at its principal office and is either -

- (i) sent by registered post; or
- (ii) delivered at that office;

(d) in any other case, if the document is addressed to the person to be served and is either sent to him by registered post or delivered at his usual residence or place of business.

(2) Any document which is required or authorised to be served on the owner or occupier of any premises may be addressed to "the owner" or "the occupier", as the case may be, of those premises (naming them) without further name or description, and shall be deemed to be duly served -

(a) if the document so addressed is sent or delivered in accordance with subsection (1)(d); or

(b) if the document so addressed or a copy thereof so addressed is fixed to some conspicuous part of the premises.

(3) Where a document is served on a partnership in accordance with the provisions of this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any premises, the council may by notice in writing require the occupier of the premises to state the name and address of the owner thereof; and if the occupier refuses or wilfully neglects to do so or wilfully mis-states the name and address of the owner he shall, unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal, be guilty of an offence and shall be liable in respect of each offence to a fine of \$20 or, in default of payment, to imprisonment for 6 weeks.

(5) In this section the word "document" means any notice, order or other document which is required or authorised to be served as specified in subsection (1).

Authentication
and execution
of documents.

115(1) Every notice, order or other document requiring authentication by a council shall be deemed to be sufficiently authenticated if signed by the clerk to the council or by any member or other officer of a council duly authorised in that behalf by the president or by the council.

(2) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of a council by any person generally or specifically authorised by such council for that purpose.

(3) Any document purporting to be a document duly executed or issued under the seal of a council or on behalf of a council shall, unless the contrary is proved, be deemed to be a document so executed or issued, as the case may be.

PART XI
MISCELLANEOUS

Powers of council may be conferred upon public officer in certain circumstances. Schedule.

116(1) The Minister may by order confer on any public officer in any area in which there is no council for any reason, power to perform all or any of the functions listed in the Schedule and to give any necessary orders for the purpose of carrying into effect any such function; and any person failing to comply with any order of such public officer made in exercise of the power conferred upon him by this section shall be liable to a fine of \$20 or, in default of payment, to imprisonment for 6 weeks and, in the case of continuing offence, further penalty of \$2 for each day on which the offence is continued after written notice of the offence has been served on the offender.

(2) Notwithstanding the other provisions of this Act, where the warrant establishing a council is cancelled under section 3, the moneys in the general fund of such council shall thereupon vest in the Republic and may be expended by the Minister for any purpose which could have been approved by such council had its warrant not been cancelled, or he may pay the whole or any portion of such moneys to such council or councils as he may determine.

(3) Any money vested in the Republic under subsection (2) shall be paid into a Special Fund to be established for the purpose, and may be expended or paid in accordance with that subsection and section 13 of the Public Finance (Control and Audit) Ordinance 1976.

Transfer of powers of public officers to councils.

117. A council may exercise any powers and may perform any duties, for the time being vested in or imposed upon any public officer, which the Minister may by order declare to be exercisable by such council; and such council may thereupon authorise any officer or servant in its employ to exercise such powers.

Determination of age.

118(1) Where for the purposes of the imposition or collection of rates under Part VIII any question shall arise as to the age of any person the age of such person shall be determined by the rate collector concerned. In determining the age of any person, the rate collector concerned shall determine such age to be the person's apparent age, unless such person shall prove to the satisfaction of such rate collector (the onus whereof shall lie on such person) that his age is an age other than his apparent age.

(2) Any question as to the age of any person arising in the application of any regulations, bye-laws or orders made under the provisions of this Act shall be determined by such person as may be authorised in that behalf by such regulations, bye-laws or orders.

(3) Any person who is aggrieved by a determination made under subsection (1) or (2) may appeal to the Minister whose decision shall be final.

Obstruction
of officers,
etc.

119. Any person who -

- (a) wilfully obstructs any member, officer or servant of a council in the execution of his duty as such; or
- (b) being the occupier of any premises, prevents the owner of such premises from complying with any requirements of a council,

shall be liable to a fine of \$50 and to imprisonment for 3 months.

Penalty for
unqualified
person sitting
or voting.

120(1) Any person who -

- (a) having been elected as a member of a council but not having been, at the time when he was elected, qualified to be so elected, sits or votes in the council; or
- (b) sits or votes in a council after his seat therein has become vacant or he has become disqualified from sitting or voting therein,

knowing, or having reasonable grounds for knowing, that he was so disqualified or that his seat had become vacant, as the case may be, shall be liable to a penalty of \$2 for every day upon which he so sits or votes.

(2) Such penalty shall be recoverable by action at the suit of council concerned.

Supply of
information.

121. It shall be the duty of every council to furnish the Minister with such information as he may require in relation to the provisions of this Act.

General
penalty.

122(1) Any person who is convicted of an offence under this Act for which no other penalty is expressly provided shall be liable to a fine of \$20 or, in default of payment, to imprisonment for 6 weeks, and, in the case of a continuing offence, a further penalty of \$2 for each day on which the offence is continued after written notice of the offence has been served on the offender.

(2) In addition to any penalty imposed under subsection (1) any expense incurred by a council in consequence of the commission of an offence under this Act shall be paid by the person committing such offence and shall be recoverable as a civil debt by the council.

- Regulations applying within area of authority of any council. 123. Notwithstanding the other provisions of this Act the Minister in consultation with the council or councils concerned may make regulations which shall apply within the area of authority of any council for the better carrying into effect of the foregoing provisions of this Act.
- State rights. 124. Save as is otherwise expressly provided, nothing in this Act shall affect prejudicially any estate, right, privilege or exemption of the State.
- Repeal. 125. The Local Government Ordinance (Cap. 51) is repealed.

SCHEDULE
(Sections 45 and 116)

FUNCTIONS OF COUNCILS

1. Agriculture, Livestock and Fisheries --
- (a) to provide services for the improvement of agriculture;
 - (b) to control plant diseases, weeds and pests;
 - (c) to control or exterminate insect, animal or other pests detrimental to crops;
 - (d) to control methods of husbandry;
 - (e) to regulate areas and methods of planting and types of crops and trees;
 - ~~(f) to provide service for the improvement of livestock;~~
 - (g) to prohibit, restrict or regulate the movement of livestock in or through the council area;
 - (h) to prohibit, restrict and regulate the keeping of livestock of any description;
 - (i) to establish, maintain and control pounds, seize and impound any stray animal, and provide for the payment of compensation for damage done by such animal;
 - (j) to prohibit cruelty to animals and any specified acts of cruelty to animals;
 - (k) to establish, erect, maintain and control slaughter houses;
 - (l) to provide for the contrroll destruction and licensing of dogs;
 - (m) to prevent and control the outbreak or the prevalence of any disease among animals;
 - (n) to provide for the improvement and control of fishing and related industries;
 - (o) to prohibit, restrict or regulate the hunting, capture, killing or sale of animals, reptiles, birds or fish or any specified kind of animal, reptile, bird or fish.
2. Buildings and Town or Village Planning --
- (a) to regulate and control the erection and construction, demolition, re-erection and reconstruction, conversion and re-conversion, alteration, repair, sanitation and ventilation of public and private buildings and structures;

- (b) to provide for building lines and the layout of buildings;
- (c) to make advances upon such conditions as may be approved by the Minister for the purpose of enabling persons to build or buy dwelling houses;
- (d) to prepare and undertake or otherwise control schemes for improved housing layouts and settlements;
- (e) to prescribe the conditions to be satisfied by a site for any building or for any class of building;
- (f) to prohibit the construction of any new building unless and until the approval of the council has been obtained;
- (g) to provide for the demolition of dangerous buildings and for the recovery of any expenses incurred in connection therewith;
- (h) to prohibit or regulate the use in any defined area of any inflammable material in the construction or repair of any building;
- (i) to build, equip and maintain social or sporting centres, public libraries and museums, communal feeding centres, restaurants, rest houses, or buildings designed and used for public or educational purposes;
- (j) to build, equip, maintain and let shops;
- (k) to prohibit or regulate the making of babai-pits or other excavations;
- (l) to control and regulate the siting of advertisements and hoardings or other structures designed for the display of advertisements;
- (m) to regulate the use of natural building and construction materials;
- (n) to establish, erect and maintain public monuments and to make collections of money towards the establishment or maintenance thereof;
- (o) to restrict the use of barbed wire and the use of broken glass or the like on fences and walls;
- (p) to name streets and public places;
- (q) to lay out and adorn any public place by any architectural scheme or ornamentation, including the erection of statues, fountains or other structures.

3. Education -

- (a) to build, equip, maintain or manage any kindergarden, primary school or any other class of school which may be approved by the Minister;
- (b) to grant sums of money towards the establishment, equipment or maintenance of any primary school or any other class of school which may be approved by the Minister;
- (c) to grant and maintain scholarships or bursaries to suitable persons to attend any school or other educational institution in Kiribati or elsewhere;
- (d) to provide for the compulsory education of children or of specified categories of children between the ages of 5 and 15 years;
- (e) to grant sums of money towards the establishment or maintenance of any public library or museum or to any association existing for the promotion of arts and crafts, or recreation and sport, or educational purposes generally.

4. Forestry and Trees -

- (a) to establish, preserve, maintain, improve and control tree nurseries, forests and woodlands and to sell the produce thereof;
- (b) to plant and tend trees in, and remove trees from, any public place.

5. Land -

- (a) to prevent and control erosion of land by the sea or other cause;
- (b) to provide for the fencing of land and for the maintenance and repair of such fencing;
- (c) to engage in and promote the reclamation of land from the sea.

6. Relief of Famine and Drought -

- (a) to regulate the areas and methods of planting and types of crops in areas which are liable to drought or famine.

7. Markets -

- (a) to build, equip, open, close and maintain markets, to prohibit the erection of stalls in places other than markets, and to prevent the sale and purchase of goods or stock near established markets;
- (b) to regulate and control markets, including the fixing of and collection of stallages, rents and tolls;
- (c) to fix the days and hours during each day on which a market may be held and to prevent the sale and purchase of goods in markets on any day or any hour except those fixed.

8. Public Health -

- (a) to safeguard and promote public health, including the prevention of and the dealing with any outbreak or the prevalence of any disease;
- (b) to regulate the number of persons permitted to reside in a building or room of any particular size, construction or design;
- (c) to build, equip and maintain, or grant sums of money towards the establishment, equipment or maintenance of any health centre or clinic, or any other medical institution which may be approved by the Minister;
- (d) to build, equip and maintain, or grant sums of money towards the establishment, equipment or maintenance of any institution or settlement for the aged, destitute or in firm or for orphans or lepers;
- (e) to exterminate and prevent the spread of mosquitoes, rats, bugs and other vermin;
- (f) to establish and operate ambulance services or to make grants towards such services;
- (g) to establish, maintain and carry out sanitary services for the removal and destruction of, or otherwise dealing with, all kinds of rubbish, refuse or excreta;

- (h) to control and provide for offences in respect of any act or omission by any member of the public detrimental to the sanitary condition of the council area or any part thereof;
- (i) to provide, erect and maintain a public water supply, and impose water rates;
- (j) to establish, maintain and control public wells, springs, bathing places, wash houses and swimming pools;
- (k) to regulate or prohibit the sinking of wells and provide for the closing of wells;
- (l) to prevent the pollution of any water, and to prevent access to any polluted source of water;
- (m) to regulate the production or preparation for sale and sale of foodstuffs, and to provide for the inspection of such foodstuffs and the places or premises used for their production, preparation or sale;
- (n) to establish, maintain and control cemeteries or burial grounds;
- (o) to provide for the cleaning and clearing of any public place.

9. Public Order, Peace and Safety -

- (a) to prohibit any act or conduct which is likely to cause a riot or any disturbance or any breach of the peace;
- (b) to prohibit, regulate or restrict the carrying or possession of weapons;
- (c) to prevent, abate and control fires;
- (d) to prohibit, control and restrict the storage of inflammable or offensive materials in any specified area;
- (e) to regulate the services of guides, porters and carriers;
- (f) to prevent and remove public nuisances;
- (g) to control the movement of beggars and vagrants in public places;
- (h) to regulate and control public collections in public places;
- (i) to prohibit, restrict, control or licence hawking;
- (j) to control the movement of children and other young persons in public places during the hours of darkness.

10. Communications and Public Utilities -

- (a) to make, alter, divert and maintain roads, streets, parking areas, paths, culverts, causeways, bridges, drains and watercourses;
- (b) to provide or arrange for lighting in public places and to provide, construct and maintain an electricity supply;
- (c) to make, alter and maintain wharves and jetties;
- (d) to make, alter and maintain aerodromes;
- (e) to provide postal and wireless telegraphic services;
- (f) to erect and maintain navigational aids;
- (g) to establish, acquire and maintain transport services by land or water, including ferries;
- (h) to prohibit, restrict or control the access of motor traffic to any road or parking area maintained by the council and to impose speed limits in respect of any road maintained by the council;
- (i) to licence bicycles;
- (j) to regulate or prohibit the planting, cutting or destruction of any trees or vegetation growing along any street, road, path or in any public place;

- (k) to provide that the owner or occupier, or several such persons jointly, of any land or tenements, maintain, clear and keep free from vegetation and rubbish such land or tenements or the road, streets, paths or public places adjoining such land or tenements;
- (l) to prevent damage or obstruction to any roads, streets, paths, or open spaces maintained by the council.

11. Trade and Industry -

- (a) to establish, maintain and control collection centres, storage depots and processing services for agricultural produce;
- (b) to provide for the control, regulation, inspection, supervision and licensing of all places of entertainment and recreation, lodging and eating-houses, and any premises in which any profession, trade or business is carried on;
- (c) to provide for the control, regulation, supervision and licensing of any other occupation;
- (d) to prescribe the conditions under which any offensive trade or industry may be carried on..

12. Miscellaneous -

- (a) to establish, maintain and provide information and publicity services;
- (b) to require the marriage, birth or death of any person within the area of authority of the council to be reported to or registered with the council and to appoint registration officers and registers for such purposes;
- (c) to promote and regulate the development of an arts and crafts industry;
- (d) to protect, preserve, prohibit or control the removal from any place of any antique artifact;
- (e) to establish, control and manage recreation grounds, open spaces and parks;
- (f) to provide for or grant sums of money towards the maintenance and welfare of children, young persons, the aged, destitute or infirm;
- (g) to enter any contract with any other council or with any other body or person to secure or further the carrying on of any work or undertaking which the council is authorised to carry on;
- (h) to fix tariffs or charges for services rendered in connection with the achievement of any of the council's purposes;
- (i) to perform any other function, whether similar to those enumerated in this Schedule or not, which may be specifically conferred upon the council by the Minister.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 22nd May 1984, and is found by me to be a true and correctly printed copy of the said Bill.

.....
Clerk to the Maneaba ni Maungatabu

Published by exhibition --

(a) at the Public Office of the Beretitenti
this day of 1984.

.....
Secretary to the Cabinet.

(b) at the Maneaba ni Naungatabu this
day of 1984.

.....
Clerk to the Maneaba ni
Naungatabu

LOCAL GOVERNMENT ACT 1984

EXPLANATORY MEMORANDUM

The principal purpose behind this Act is to give local councils and the people concerned more say and more responsibility in the running of their own local affairs than what they have been given and presently enjoying under the present law.

This Act repeals the present Local Government Ordinance (Cap. 51) in section 125 but most of the provisions in that Ordinance are still retained. This Act therefore is in fact an amendment of the Local Government Ordinance (Cap. 51). However repeal of such Ordinance was found to be necessary for ease of reference in view of the numerous amendments to be made which would otherwise make the reading and presentation of such amendments most unintelligible and confusing.

Such repeal however does not affect nor change the status of local councils established under the Local Government Ordinance (Cap. 51) nor does it affect the previous operation of the Ordinance in terms of anything having been duly done or suffered or any instrument or subsidiary legislation having been duly made under that Ordinance (Part IV and V of the Interpretation and General Clauses Ordinance (Cap. 46)).

This Act therefore in --

1. Section 3 provides for the establishment of Local Government councils by the Minister acting in accordance with the advice of Cabinet after consultation with the people concerned. It is recognised under this section that people residing within the area of authority of a council to be established must be consulted before such council is established.
2. Section 7(b) provides for the appointment of nominated members by the council by resolution. Previously such power was vested in the Minister.
3. Section 12(1) provides for the termination of appointment of a nominated member by the council rather than by the Minister which was the case before this Act.
4. Section 15(2)(c) provides for a term of office of the President and vice-president of a council which term shall be determined by the council by standing orders. Such term however when determined must not exceed 3 years nor be less than 2 years. Where no standing orders are made the term of office shall be for 2 years. The law now in force for the time being provides for a term of office of one year only.
5. Section 20(4) provides for a council to transact any business other than that specified in the notice provided that the majority of the members present and voting agree to proceed.

6. Section 29(1) empowers a council to provide in its standing orders for the term of office of the president.

7. Section 41 enables a council to enter and conclude any contract. A ministerial approval as required under the present law is no longer needed.

8. Section 51 deals with the method of making bye-laws by a council. Subsection (2) adopts the procedure of introducing Bills in the Maneaba ni Maungatabu in section 68(3) of the Constitution in that a council is prevented to proceed on a bye-law after its first reading until the next following meeting of the council unless certified as urgent by the majority of the members of the council present and voting. Subsection (3) provides that after its first reading a bye-law must be publicised widely, debated and discussed at public meetings of the persons affected by such bye-law.

9. Section 54(2) enables a council to establish any special fund for any specific purpose without ministerial approval being required as it is now the case under the present law.

10. Section 57 empowers a council to raise loans within Kiribati without the sanction of the Minister. Consequently subsection (3) is deleted and excluded from this Act.

11. Section 60 empowers a council to invest its moneys anywhere without as it was the case before the sanction of the Minister being required.

12. Section 61 again empowers a council to make advances, operate deposit and suspense accounts without ministerial sanction being required.

13. Section 63 provides for the Minister acting in accordance with the advice of Cabinet to issue Financial Instructions to any council.

14. Section 64(4) provides for the Minister to authorise any council through Financial Instructions and imposing such conditions as he thinks fit to appropriate supplementary sums if an urgent and unforeseen need arises during the year but no provision was made in the estimates for such year.

15. Section 77(1)(a) empowers a council to make and levy a basic rate on any person or persons within the area of its authority.

16. Section 79 empowers a council with the approval of the Minister to make regulations in respect of the making and levying of general rates under section 77 by the council or persons resident within its area of authority whereas before such power was vested in the Beretitenti acting in accordance with the advice of Cabinet.

17. Section 95 enables any council to agree with another council on the joint employment of staff or officer without any ministerial sanction being required.

18. Section 101 empowers any council to issue staff instructions without any ministerial sanction being required.
19. Section 102 provides that any council established under this Act is an employer for the purposes of Part IV of the Provident Fund Ordinance.
20. Section 124 of the Local Government Ordinance (Cap 51) is deleted and excluded from this Act for reasons of inapplicability and irrelevancy.

Michael N. Takabwebe
The Attorney General

LEGAL REPORT

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

Michael N. Takabwebe
The Attorney General
20 October 1983

THE REPUBLIC OF KIRIBATI
(No. 2 of 1985)

I assent,

V. Tabai
Beretitenti.

18/9/1985

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT
(No. 2 of 1984)

Commencement:

18/9/1985

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

Short title.

1. This Act may be cited as the Local Government (Amendment) Act 1985.

Amendment of section 64(4).

2. Section 64(4) of the Local Government Act 1984 (No. 2 of 1984) is amended by adding the following:

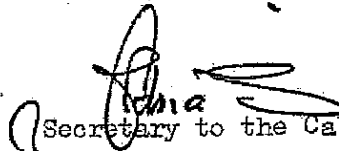
"or to vary the sum assigned to any purpose within any head of expenditure shown in the estimate of expenditure for any financial year or to provide for a new purpose within such head by means of a Virement Warrant which shall be issued, made and signed by the president after formal resolution of the council the date of which shall be recorded in the warrant, that there shall be applied in aid of any purpose for which the sum assigned may be deficient or in aid of any new purpose a further sum out of any surplus arising on any sum assigned to any purpose within the same head".

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 29th day of August, 1985 and is found by me to be a true and correctly printed copy of the said Bill.

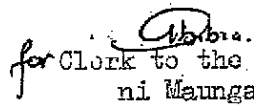
[Signature]
Clerk to the Maneaba
ni Maungatabu.

Published by exhibition -

- (a) at the Public Office of the Beretitenti
this 10th September 1985


(Secretary to the Cabinet

- (b) at the Maneaba ni Maungatabu this 10th day
of September, 1985.


for Clerk to the Maneaba
ni Maungatabu

LOCAL GOVERNMENT (AMENDMENT) ACT 1985

EXPLANATORY MEMORANDUM

1. The principal object of this short Act is to amend section 64(4) of the Local Government Act 1984 so as to empower the Minister to empower any local government council to vary any sum assigned to any head of expenditure shown in the estimate of expenditure for any financial year or to provide for a new purpose within such head by means of a Virement Warrant authorising the transfer of certain sums from one head which is not deficient to another head which is deficient.
2. Clause 2 of the Act provides for that authorisation which is now not provided for under the Local Government Act.

Michael N. Takabwebwa
The Attorney General

LEGAL REPORT

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

Michael N. Takabwebwa
The Attorney General
13 March 1985

THE REPUBLIC OF KIRIBATI

(No. 3 of 1987)

I assent,

U. Tabua
Beretitenti

22/12/1987

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT
1984 AND FOR CONNECTED PURPOSES

Commencement:

22/12/1987

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

Short title and commencement

(1) This Act may be cited as the Local Government (Amendment) Act 1987.

(2) This Act shall be deemed to have come into operation on 1st January 1987.

Amends Act No. 2 of 1984

2. Section 9 of the Local Government Act 1984 is hereby amended by -


(a) adding a new subsection (4) after subsection (3) as follows -

"(4) No ex officio member of a council referred to in sections 7 and 8 of this Act shall under any circumstances whatsoever contest for election to a council";

(b) by the repeal of the word "and" and the substitution therefor of a comma in the first line of subsection (1);

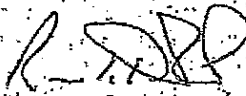
(c) by the repeal of the comma after the figure "(3)" in the first line of subsection (1) and the substitution therefor of the word and figure "and (4)".

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 8th December, 1987 and is found by me to be a true and correctly printed copy of the said Bill.



Clerk to the Maneaba ni
Maungatabu

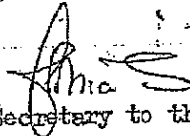
I certify that the above Act, was on the 8th day of December, 1987 passed the Maneaba ni Maungatabu on a certificate of urgency under section 68(3)(a) of the Constitution.



Speaker

Published by exhibition -

(a) at the Public Office of the Beretitenti this 22nd day of December 1987.



Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu this 22nd day of December 1987.



Clerk to the Maneaba ni
Maungatabu.

THE LOCAL GOVERNMENT (AMENDMENT) ACT 1987

EXPLANATORY MEMORANDUM

This short Act seeks to amend section 9 of the Local Government Act 1984 (Act No. 2 of 1984) in order to disqualify ex officio members of local government councils from contesting for elections to such councils.

It will be recalled that under the said Local Government Act every elected member of the Maneaba ni Maungatapu for an electoral district the whole or part of which lies within the area of authority of a council (whether a town or urban council or otherwise) shall be a member of the council ex officio.

As the law now stands there is nothing to prevent any ex officio member from contesting for election to a council of which he is already, in law, a member.

The purpose of this Act is to make it clear beyond doubt that ex officio members of councils are not entitled under any circumstances, to contest for election to such councils.

This amendment has retrospective effect from 1st January 1987. The effect is that is passed to law all such elections to councils by ex officio members since 1st January 1987 have no effect.

Michael Neua Takabwebwe
The Attorney General

LEGAL REPORT

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

Michael N. Takabwebwe
The Attorney General
15th December, 1987

THE REPUBLIC OF KIRIBATI
(No: 3 of 1989)

I assent,

U. T. T. T.
Beretitenti.

18/7/1989

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT 1984

Commencement:

18/7/1989

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

Short title

1. This Act may be cited as the Local Government (Amendment) Act 1988.

Amends section 11 of the Principal Act

2. Section 11(2) of the Local Government Act 1984 (hereinafter referred to as "the principal Act") is hereby amended by adding the following -

"(f) if he vacates his seat pursuant to section 11A of this Act."

Inserts a new section 11A into the Principal Act

3. The principal Act is amended by the insertion immediately after section 11 of the following new section -

"Vacation of seat after petition and referendum

Cap. 29B

11A.(1) A petition may be presented to the Chief Electoral Officer calling for the removal of an elected member of a council signed by a majority of the persons who are qualified as electors under the Elections Ordinance in the electoral ward from which that member was last elected.

(2) The Chief Electoral Officer shall as soon as practicable after receipt of a petition under the preceding subsection, conduct a referendum to determine whether the member named in the petition should vacate his seat in the Council.

Cap. 29B

(3) No person shall be entitled to vote in a referendum under this section unless he is qualified as an elector under the Elections Ordinance in the electoral ward from which the member was last elected.

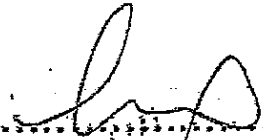
(4) If in a referendum under this section a majority of those entitled to vote in that referendum vote for the removal from the Council of the member named in the petition, that member shall vacate his seat.

(5) Where a member vacates his seat in the council under the preceding subsection, a by-election shall be held within 3 months to fill that seat in the council.

(6) No action shall be taken on a petition delivered to the Chief Electoral Officer under this section until the expiration of three months following -

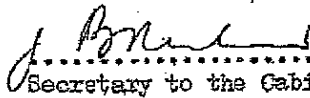
- (a) the last occasion on which the member named in the petition was elected to the council; or
- (b) the date of any referendum held under this section which determined that the member named in the petition was not required to vacate his seat in the council under subsection 4 of this section".

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 17th May 1989 and is found by me to be a true and correctly printed copy of the said Bill.


.....
Clerk to the Maneaba ni Maungatabu

Published by exhibition -

(a) at the Public Office of the Beretitenti this
18 day of July 1989.


.....
Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu this 18th
day of July, 1989.


Clerk to the Maneaba ni Maungatabu.

LOCAL GOVERNMENT (AMENDMENT) ACT 1989

EXPLANATORY MEMORANDUM

1. This Act provides that the electors of any ward of a Local Government Council established under the Local Government Act 1984 can remove the elected member through a petition and a referendum.
2. A petition must be signed by a majority of such electors and sent to the Chief Electoral Officer.
3. When the Chief Electoral Officer receives the petition he must conduct a referendum to prove the validity of the petition.
4. Such provision is an adaptation of section 59 of the Constitution.
5. In due course a Bill will be introduced to amend the Referenda Act 1984 to provide for the holding of such referendum referred to above.

Tewareka Tentoa
Member from Onotoa

LEGAL REPORT

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

Michael N. Takatwebwe
The Attorney General
1st June, 1989.

THE REPUBLIC OF KIRIBATI
(No. 3 of 1989) -

I assent,

U. Tala
Beretitenti.

18/7/1989

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT 1984

Commencement:

18/7/1989

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

Short title

1. This Act may be cited as the Local Government (Amendment)
Act 1988.

Amends section
11 of the
Principal Act

2. Section 11(2) of the Local Government Act
1984 (hereinafter referred to as "the principal Act") is
hereby amended by adding the following -

"(f) if he vacates his seat pursuant to section 11A
of this Act."

Inserts a new
section 11A into
the Principal Act

3. The principal Act is amended by the insertion immediately
after section 11 of the following new section -

"Vacation of
seat after
petition and
referendum

Cap. 29B

11A.(1) A petition may be presented
to the Chief Electoral Officer calling
for the removal of an elected member
of a council signed by a majority of
the persons who are qualified as electors
under the Elections Ordinance in the
electoral ward from which that member
was last elected.

(2) The Chief Electoral Officer
shall as soon as practicable after
receipt of a petition under the preceding
subsection, conduct a referendum to
determine whether the member named in the
petition should vacate his seat in the
Council.

Cap. 29B

(3) No person shall be entitled to vote in a referendum under this section unless he is qualified as an elector under the Elections Ordinance in the electoral ward from which the member was last elected.

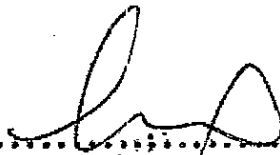
(4) If in a referendum under this section a majority of those entitled to vote in that referendum vote for the removal from the Council of the member named in the petition, that member shall vacate his seat.

(5) Where a member vacates his seat in the council under the preceding subsection, a by-election shall be held within 3 months to fill that seat in the council.

(6) No action shall be taken on a petition delivered to the Chief Electoral Officer under this section until the expiration of three months following -

- (a) the last occasion on which the member named in the petition was elected to the council; or
- (b) the date of any referendum held under this section which determined that the member named in the petition was not required to vacate his seat in the council under subsection 4 of this section".

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 17th May 1989 and is found by me to be a true and correctly printed copy of the said Bill.

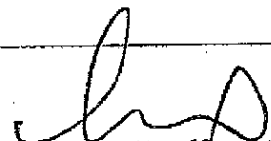

.....
Clerk to the Maneaba ni Maungatabu

Published by exhibition -

(a) at the Public Office of the Eeretitenti this
18 day of July 1989.


.....
Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu this 18th
day of July, 1989.


Clerk to the Maneaba ni Maungatabu.

LOCAL GOVERNMENT (AMENDMENT) ACT 1989

EXPLANATORY MEMORANDUM

1. This Act provides that the electors of any ward of a Local Government Council established under the Local Government Act 1984 can remove the elected member through a petition and a referendum.
2. A petition must be signed by a majority of such electors and sent to the Chief Electoral Officer.
3. When the Chief Electoral Officer receives the petition he must conduct a referendum to prove the validity of the petition.
4. Such provision is an adaptation of section 59 of the Constitution.
5. In due course a Bill will be introduced to amend the Referenda Act 1984 to provide for the holding of such referendum referred to above.

Tewareka Tentoa
Member from Onotea

LEGAL REPORT

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

Michael N. Takabwebwe
The Attorney General
1st June, 1989.

THE REPUBLIC OF KIRIBATI
(No. 10 of 1989)

I assent,

V. Tabai
Beretitenti
27/10/1989

AN ACT TO DECLARE WHAT CONSTITUTES THE LAWS OF
KIRIBATI; AND FOR CONNECTED PURPOSES

Commencement:
1989

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

Short title

1. This Act may be cited as the Laws of Kiribati Act 1989.

Commencement

2. This Act shall come into force on such date as the
Minister may by notice appoint.

Interpretation

3. In this Act, unless the context otherwise requires -
"applied law" means a law of any of the kinds described in
section 7;

"common law of Kiribati" means the common law as described
in section 6;

"customary law" has the meaning assigned by section 5.

Laws of Kiribati

4. - (1) The Constitution is the supreme law of Kiribati and
the other laws comprising the Laws of Kiribati have effect
subject to its provisions.

(2) In addition to the Constitution, the Laws of Kiribati
comprise -

- (a) every Ordinance and every Act and all subsidiary
legislation made thereunder;
- (b) customary law;
- (c) the common law of Kiribati;
- (d) every applied law.

Customary law

5. - (1) Customary law comprises the customs and usages, existing from time to time, of the natives of Kiribati.

(2) Subject to section 4(1), customary law shall have effect as part of the law of Kiribati, except to the extent that it is inconsistent with an enactment or an applied law published under section 11.

Schedule 1

(3) Schedule 1 has effect with respect to the determination and recognition of customary law.

Common law of Kiribati

6. - (1) Subject to this section, the common law of Kiribati comprises the rules comprised in the common law, including the doctrines of equity, of England (in this section referred to as "the inherited rules"), as applied in the circumstances pertaining, from time to time in Kiribati.

(2) In ascertaining for the purposes of subsection (1) the inherited rules -

(a) the effect of any law of England, enacted or made after 1 January 1961, on those rules shall be disregarded, save in so far as the law had or has effect as part of the law of Kiribati; and

(b) any such rule that is inapplicable or inappropriate in the circumstances pertaining, from time to time, in Kiribati shall be disregarded.

(3) Subject to section 4(1), the common law of Kiribati shall have effect as part of the law of Kiribati, save in so far as -

(a) it is inconsistent with an enactment or an applied law; or

(b) in its application to any particular matter it is inconsistent with customary law in respect of that matter.

(4) In every court the rules of the common law and the doctrines of equity included in the inherited rules and comprised in the common law of Kiribati shall be administered concurrently; but in the event of a conflict between those rules and doctrines with reference to the same matter, the doctrines of equity shall prevail.

Applied laws

7. - (1) The applied laws comprise such -

(a) enactments of the Parliament of the United Kingdom or of any predecessor Parliament (including statutes

of general application in force in England on 1 January 1961);

- (b) Orders of Her Majesty in Council;
- (c) subsidiary legislation made under any of those enactments or Orders in Council;

as have or has effect as part of the law of Kiribati.

(2) For the purpose of its application as part of the law of Kiribati, but without prejudice to the Constitution (Laws Adaptation) Order 1980, an applied law shall be construed with such -

- (a) changes as to names, titles, offices, persons, institutions, localities, moneys and penalties; and
- (b) other formal and non-substantial changes,

as are necessary -

(i) to adapt it to the provisions of the Constitution;

(ii) to make it applicable to the circumstances of Kiribati.

Adaptation
of applied
law

8.-(1) The Attorney-General may, by regulation, make such adaptations to an applied law, for the purpose of preparing its transcription under section 9, as are necessary or expedient for -

- (a) producing consistency between that law and the Constitution, any enactment or customary law; or
- (b) making it applicable to the circumstances of Kiribati,

and, in particular, may -

- (i) make such changes as to names, titles, offices, persons, institutions and localities as are necessary to so adapt the applied law;
- (ii) substitute for references in the applied law references to the equivalent provisions in an enactment where that is necessary to make the applied law constitute with the enactment; and
- (iii) vary financial references, including penalties, in the applied law so as to take account of changes in currency,

but sums of money expressed in the applied law in the currency of the United Kingdom, when varied so as to be expressed in the currency of Kiribati, shall be converted at the rate that £1 is deemed to be equivalent to \$2.

(2) The power under subsection (1) shall not be exercised in relation to a transcription of an applied law published under section 11.

(3) Regulations made under subsection (1) shall come into effect on the date of publication under section 11 of the transcription of the applied law to which they relate.

Powers of Attorney-General in relation to applied laws

9. - (1) The Attorney General may cause to be prepared a transcription of an applied law incorporating -

- (a) changes such as are referred to in section 7(2);
- (b) any adaptations made to the applied law by regulations made under section 8; and

Schedule 2

(c) changes or modifications effected by the exercise of any of the powers set out in the Schedule 2.

(2) The power under subsection (1) shall not be exercised in relation to a transcription of an applied law published under section 11.

Presentation of applied law to Maneaba ni Maungatabu

10. - (1) The Speaker shall present to the Maneaba ni Maungatabu -

- (a) the transcription of an applied law prepared under section 9; and
- (b) any regulations made by the Attorney-General under section 8 for the purpose of preparing that transcription;
- (c) a memorandum giving particulars of the adaptations, changes and modifications incorporated in that transcription;

but no presentation may be made unless, not less than 30 working days before the day on which it is to be made, the transcription, regulations and memorandum have been published in the manner directed in each case by the Speaker.

(2) Immediately upon the publication under subsection (1) of a transcription, regulations and memorandum, copies shall be sent by the Clerk to the Maneaba ni Maungatabu to each Member of the Maneaba ni Maungatabu.

(3) Subject to subsection (4), the Maneaba ni Maungatabu may, in the session in which the transcription of the applied law is presented under subsection (1), on a motion of not less than 2 clear days' notice, by resolution -

- (a) make an adaptation, change or modification (certified by the Attorney-General as one which could have been made under section 7(2), 8(1) or 9(1)(c) and Schedule (2) to the transcription; or
- (b) reject the transcription, on a ground referred to in subsection (5).

(4) Where the Maneaba ni Maungatabu refers a transcription of an applied law to a select committee for its consideration, notice of a motion for a resolution under subsection (3) may not be given in relation to that transcription until the select committee has reported thereon to the Maneaba ni Maungatabu.

(5) The grounds on which the Maneaba ni Maungatabu may reject a transcription of an applied law are -

(a) that all or any of the adaptations, changes or modifications incorporated in the transcription are not adaptations, changes or modifications which may be so incorporated under section 7(2), 8(1) or 9(1)(c) and Schedule 2; or

(b) that the applied law conflicts with customary law.

Publication of transcription of applied law

11. - (1) Where a transcription of an applied law has been presented under section 10 and has not been rejected in the session of the Maneaba ni Maungatabu in which it was presented, the Beretitenti shall direct that the transcription of the applied law be published.

(2) A transcription published under this section shall incorporate any adaptations, changes or modifications made under section 10(3)(a).

(3) A transcription of an applied law published under this section shall have incorporated in it a certificate of the Beretitenti to the effect that the transcription is so published.

(4) Publication of transcriptions of applied laws shall be by exhibition at the Public Office of the Beretitenti.

(5) Transcriptions of applied laws published under this section shall be numbered serially in the chronological order of their publication without reference to the year

in which they are so published; and any such applied law may be cited by reference to the number assigned to its transcription.

Effect of publication of transcription of applied law

12. With effect from the date of publication under section 11 of a transcription of an applied law -

- (a) that transcription shall have effect as part of the law of Kiribati and any other version shall cease so to have effect;
- (b) any subsidiary legislation made under that applied law that is not or has not been published under section 11 on or before that date as a transcription of an applied law shall cease to have effect as part of the law of Kiribati;
- (c) references in any enactment to the applied law, or to provisions of the applied law, shall be construed as references to that transcription, or to the equivalent provisions of that transcription, as the case may be;
- (d) unless the context otherwise requires, the Interpretation and General Clauses Ordinance applies for the purpose of interpreting, and in relation to, that transcription, as it applies for the purpose of interpreting, and in relation to, an Act.

Cap. 46

Judicial precedent

13. - (1) Every court is bound to follow any decision of the Judicial Committee on a question of law if given (whether before or after the commencement of this Act) in relation to an appeal from Kiribati; but if otherwise given, such a decision is of persuasive authority only.

(2) A court is not bound by any decision on a question of law of a court constituted for a country other than Kiribati.

(3) A court is bound by any decision on a question of law of a court which is a superior court in relation to it.

(4) The Court of Appeal or the High Court may, while treating its own previous decisions as normally binding, depart from a previous decision when it appears right to do so.

(5) In this section -

"Judicial Committee" has the meaning assigned by section 132(1) of the Constitution.

"Superior court", in relation to another court, means a court which has jurisdiction to determine appeals from, or to review, decisions of the other court, but does not include the Judicial Committee.

Repeals and amendments Cap. 46

14. - (1) The interpretation and General Clauses Ordinance is amended in section 3(1) by -

(a) the deletion of the definition of "common law" and the substitution of the following definition -

"common law" means the common law of Kiribati as described in section 6 of the Laws of Kiribati Act 1989;"

(b) the deletion of the definition of "statute of general application" and the substitution of the following definition -

"statute of general application" means a statute of general application referred to in section 7(1)(a) of the Laws of Kiribati Act 1989;"

Cap. 52

(2) The Magistrates' Court Ordinance is amended by the repeal of section 42.

No. 2 of 1984

(3) The Local Government Act 1984 is amended -

(a) in section 50(4) by inserting at the end the following proviso -

"Further provided that nothing in the Laws of Kiribati Act 1989 affects any power of a council to amend customary law when making bye-laws.";

(b) in section 123 by inserting at the end the following proviso -

"Provided that nothing in the laws of Kiribati Act 1989 affects any power of the Minister to amend customary law when making regulations."

Cap.67

(4) The Penal Code is amended in section 17 by the deletion of the word "English".

(5) The Western Pacific (Courts) Order in Council 1961 of the United Kingdom, to the extent that it is part of the law of Kiribati, is amended by the repeal of section 15.

(6) Without prejudice to sections 7 and 12, the repeals made by subsections (2) and (5) do not affect the operation in Kiribati of statutes of general application that were in force immediately before the commencement of this Act by virtue of the provisions thereby repealed.

SCHEDULE 1

(sec.5(3))

THE DETERMINATION AND RECOGNITION OF CUSTOMARY LAW

Proof of custom

1.-(1) Questions of -

- (a) the existence and nature of customary law in relation to a matter; and
- (b) the application of customary law in, or relevance to, any particular circumstances,

shall be determined as questions of law, and, accordingly, any such question may be raised by the court itself, notwithstanding that the question has not otherwise been raised.

(2) If, in any proceedings, after having -

- (a) considered such submissions thereon as may be made by or on behalf of the parties; and
- (b) consulted such reported cases, legal text books or other similar sources, as may be appropriate,

a court entertains any doubt on any question referred to in sub-paragraph (1), the court shall proceed to inquire into the question in accordance with sub-paragraphs (3) to (5), and, if necessary, it may adjourn the proceedings to enable such an inquiry to take place.

(3) The inquiry shall -

- (a) be held as part of the proceedings; and
- (b) subject to sub-paragraph (4), be conducted in such manner as the court considers expedient.

(4) In considering the question in doubt, the court -

- (a) is not bound to observe strict legal procedure or apply technical rules of evidence;
- (b) may, of its own motion, call such evidence or require the opinions of such persons as it thinks fit;
- (c) shall -

- (i) admit and consider such evidence as is available (including hearsay evidence and expressions of opinion); and
 - (ii) otherwise inform itself as it thinks fit;
- (d) shall consider such submissions on the question as may be made by or on behalf of the parties;

but this sub-paragraph does not limit in any way the discretion of the court in obtaining evidence or information itself on the question.

(5) For the purposes of the decision on a question referred to in sub-paragraph (1), a court may -

- (a) consult to the extent that is appropriate -
 - (i) reported cases;
 - (ii) books, treatises, works of reference or official reports (whether published or not);
 - (iii) statements made by local government councils (whether published or not);
- (b) accept any matter or thing stated in such sources as evidence on the question.

(6) Notwithstanding sub-paragraph (1), where appeal is made from a decision of a court, the court that hears the appeal may consider afresh a question referred to in that sub-paragraph that arises in the appeal.

Recognition of custom

2. Subject to this Schedule, customary law shall be recognised and enforced by, and may be pleaded in, all courts except so far as in a particular case or in a particular context its recognition or enforcement would result, in the opinion of the court, in injustice or would not be in the public interest.

Criminal cases

3. Subject to this Act and to any other enactment, customary law may be taken into account in a criminal case only for the purpose of -

- (a) ascertaining the existence or otherwise of a state of mind of a person; or

- (b) deciding the reasonableness or otherwise of an act, default or omission by a person; or
- (c) deciding the reasonableness or otherwise of an excuse; or
- (d) deciding, in accordance with any other enactment, whether to proceed to the conviction of a guilty party; or
- (e) determining the penalty (if any) to be imposed on a guilty party.

or where the court thinks that by not taking the customary law into account injustice will or may be done to a person.

Civil cases

4. Subject to this Act and to any other enactment, customary law may be applied in a case other than a criminal case in relation to -

- (a) the ownership by custom of or of rights in, over or in connection with native land (within the meaning assigned by the Native Lands Ordinance); or -
 - (i) any thing in or on native land; or
 - (ii) the produce of native land;

Cap. 61

~~or the determination of, or rights in relation to, the boundaries to native land or rights in connection with the transfer of title to native land; or~~

- (b) rights in respect of the possession or utilisation of native land, including rights of hunting or gathering on, or taking minerals from, native land; or
- (c) the ownership by custom of rights in, over or in connection with any sea or lagoon area, inland waters or foreshore or reef, or in or on the seabed, including rights of navigation or fishing;
- (d) the ownership by custom of water, or of rights in, over or to water; or
- (e) the administration, devolution or partition of native land or of rights in, over or in connection with native land, whether -
 - (i) on the death or the birth or the adoption of a person; or
 - (ii) on the happening of a certain event; or

- (f) defamation; or
 - (g) the legitimacy, legitimation or adoption of children; or
 - (h) the rights of married persons arising out of their marriage or on the termination of their marriage by nullity, divorce or death, the right of a member of a family to support by other members of that family, or the right to the custody or guardianship of infants; or
 - (i) the duty of members of a community to contribute, whether by labour, money or in kind, to projects for the welfare of that community; or
 - (j) a transaction that -
 - (i) the parties intended should be; or
 - (ii) justice requires should be,regulated wholly or partly by customary law and not by any other law; or
 - (k) the reasonableness or otherwise of an act, default or omission by a person; or
 - (l) the existence of a state of mind of a person; or
- where the court thinks that by not taking the customary law into account injustice will or may be done to a person.

Customary law in relation to family matters, etc.

5. Notwithstanding anything in the common law, customary law shall be applied in deciding questions in connection with the matters specified in paragraph 4(g) and (h).

Conflict of customary law

6.-(1) Subject to this paragraph, and to any other enactment, where -

- (a) in a matter before a court a question arises as to which of two or more rules of customary law should prevail; and
- (b) the court is not satisfied on the evidence before it as to the question,

the court shall consider all the circumstances and may adopt those rules that it is satisfied the justice of the case requires.

(2) Where a court is not satisfied as to which of two or more rules of customary law applies, or should under sub-paragraph (1) be applied, to or in relation to a matter, the court may apply, with the necessary modification as nearly as may be, the rules of the common law.

(3) The principles set out in sub-paragraphs (1) and (2) may be varied or departed from by a court in any particular case to such extent as the justice of the case requires.

Savings

7. Nothing in this Schedule affects the operation of Part VI of the Magistrates' Courts Ordinance or the Native Lands Ordinance or the Kiribati Lands Code.

Cap. 52
Cap. 61

SCHEDULE 2

(sec.9(1)(c))

POWERS OF ATTORNEY-GENERAL IN RELATION TO APPLIED LAWS

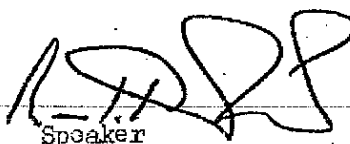
The Attorney-General has power to -

- (a) make such changes as are necessary or expedient for the purpose of securing uniformity of expression in an applied law;
- (b) consolidate into 1 applied law any 2 or more applied laws, making such alterations as are thereby rendered necessary or expedient;
- (c) alter the order of sections in any applied law;
- (d) renumber the sections in any applied law in all cases where it may be necessary or expedient to do so;
- (e) alter the form or arrangement of any section, by transferring words, by combining it in whole or in part with another section or other sections or by dividing it into 2 or more subsections or paragraphs;
- (f) delete the enactment provision in an applied law;
- (g) provide a long title or a short title to any applied law that may require it or to alter a long title or short title of any applied law;
- (h) supply or alter tables of contents, chronological tables and notes;
- (i) correct grammatical, typographical and similar errors in an applied law, and for that purpose to make verbal additions, omissions, or alterations not affecting the meaning of an applied law;
- (j) correct cross references;
- (k) make such amendments as are necessary to resolve ambiguities, remove doubts or improve the form and manner in which the applied law is stated; and
- (h) generally, do all such things relating to form and manner of expression as appear to him to be necessary to improving the applied law in its application to Kiribati and for compatibility with the form and manner of expression used in other enactments.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 21st December, 1989 and is found by me to be a true and correctly printed copy of the said Bill.

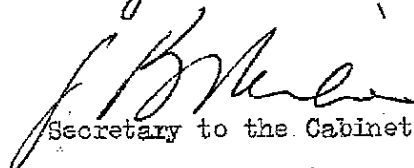

Clerk to the Maneaba ni
Maungatabu

I certify that the above Act, was on the 21st December, 1989 passed by the Maneaba ni Maungatabu on a certificate of urgency under section 68(3)(a) of the Constitution.


Speaker

Published by exhibition -

(a) at the Public Office of the Beretitenti this
23rd day of February 1990.


Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu this 23rd
day of February, 1990.


Clerk to the Maneaba ni
Maungatabu

LAWS OF KIRIBATI ACT 1989

EXPLANATORY MEMORANDUM

The principal purposes of the Laws of Kiribati Act 1989 are, first, to declare authoritatively what constitute the laws of Kiribati and the relationship between those laws and, secondly, to provide a procedure under which legislation inherited from the United Kingdom may be patriated, that is, transcribed as legislation of Kiribati.

Section 4 repeats the provision in the Constitution (section 2) that the Constitution is the supreme law of Kiribati and that all other law is subordinate to it. In addition, the Laws of Kiribati are stated to comprise -

- (a) Ordinances and Acts enacted in Kiribati, and all subsidiary legislation made under them;
- (b) customary law, being the custom and usages of the indigenous people of Kiribati, except where they are not consistent with enacted legislation (section 5). Procedures for the determination and recognition of customary law in legal proceedings are provided in Schedule 1;
- (c) the common law of Kiribati (which derives from the common law, including the doctrines of equity, of England - section 6), except where it is not consistent with enacted legislation or customary law - section 6(3);
- (d) applied legislation - that is, written laws of stated kinds inherited from the United Kingdom that have effect as part of the law of Kiribati - section 7.

These provisions that effect in place of the rules that hitherto had force - ie; section 15 of the Western Pacific (Courts) Order in Council 1961 and section 42 of the Magistrates' Courts Ordinance, Cap. 52, both of which are repealed - section 14.

A procedure for transcribing inherited legislation into Kiribati provisions is set out in sections 8 - 12. This will be used in cases where the inherited legislation requires little adaptation, whether in substance or in form, in order to be re-stated as a Kiribati statute. (Those inherited provisions which require major adaptation will be patriated through the process of re-enactment).

The Attorney-General is given powers to make necessary adaptations by regulations for purposes of the transcription process, in order to bring the inherited law into conformity with the existing law of Kiribati (section 8). The inherited legislation, with any such adaptations, may then be transcribed into the form of a Kiribati statute. For that purpose the Attorney-General is also given law revision powers to make presentational changes (section 9 and Schedule 2).

The transcription (with any regulations making adaptations and an explanatory memorandum) must be presented to the Maneaba ni Maungatabu, in the same way as a Bill (section 10(1)-(2)). But as the transcription relates to legislation that is already the law of Kiribati, the Maneaba may reject a transcription only where it incorporates adaptations beyond the powers conferred on the Attorney-General or specifically where the legislation conflicts with customary law (section 10(4)-(5)). Where, for example, a matter may have been overlooked in making required adaptations, the Maneaba may authorise the necessary adaptations to be made in the inherited legislation (section 10(3)).

Transcriptions that are not rejected by the Maneaba must then be published on the authority of the Beretitenti, using a similar procedure to that used for legislation (Interpretation and General Clauses Ordinance, Cap. 46, section 17) - section 11(1-4)). Special rules for numbering and citation are provided (section 11(5)). Once published, the transcription replaces the legislation originally inherited and to all intents it will operate in the same way as an enactment made in Kiribati (section 12).

Section 13 determines the principal rules whereby judgements in decided court cases become binding judicial precedents. A Kiribati court is bound by the decisions in similar cases given by any court that is superior to it. It is not bound to follow decisions of courts of other countries (eg: of England), except those of the Judicial Committee of the Privy Council on appeals from Kiribati. The Court of Appeal and the High Court may depart from their own previous decisions where they think it right to do so.

Section 14 makes a number of consequential amendments and repeals to other laws.

Schedule 1 lays down a procedure to be followed in determining when and how customary law may have effect in Kiribati (paragraph 1) and how conflicts between different customs are to be resolved (paragraph 6). General rules stating when, and to what extent, customary law may operate in Kiribati are contained in paragraphs 2 - 5. These rules operate subject to the provisions of written enactments dealing with a particular subject matter. Existing written law giving effect to custom (eg: the Native Lands Ordinance) is unaffected by these provisions - paragraph 7.

Michael N. Takabwebwe
Attorney General
31 August 1989

LEGAL REPORT

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

Michael N. Takabwebwe
Attorney General

THE REPUBLIC OF KIRIBATI
(No. 2 of 1992)

I assent,

Beretitenti,
1992

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT 1984

Commencement,
1992

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

Short title

1. This Act may be cited as the Local Government (Amendment) Act No. 2 of 1992.

Amendment of Section 10

2. Section 10(1) of the Local Government Act 1984 is hereby amended by deleting 3 years and one-third and inserting 4 years and one-quarter respectively.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 26th May 1992, and is found by me to be a true and correctly printed copy of the said Bill.

C.D. b.a.
/ Clerk to the Maneaba ni Maungatabu.

2/

Published by exhibition -

(a) at the Public Office of the Beretika on
21/9/1992

.....
Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu on
22 September 1992.

AD
Clerk to the Maneaba ni
Maungatabu.

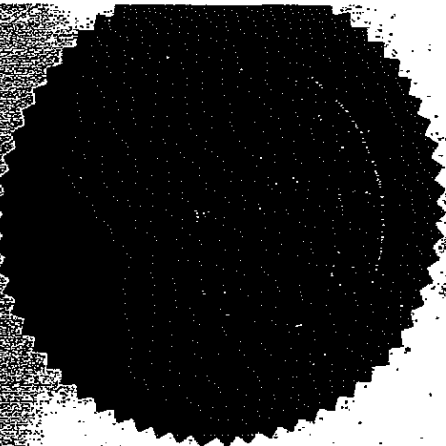
LOCAL GOVERNMENT (AMENDMENT) BILL 1992

EXPLANATORY MEMORANDUM

The purpose of this bill is to amend the Local Government Act 1984.

The amendment seeks to increase the term of office of elected members from 3 years to 4 years to bring it in line with the term of office of a member of the Maneaba ni Maungatabu.

Teiraoi Tetabea MP
(Betio)



REPUBLIC OF KIRIBATI
(NO. 2 OF 1994)

We assent
[Signature]
Chairman

[Signature]
Member

Member

Council of State
10 June 1994.

THE COUNCIL OF STATE, PERFORMING IN ACCORDANCE WITH THE
CONSTITUTION THE FUNCTIONS OF TE BERETITENTI

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT 1984

Commencement
1994

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

Short Title

1. This Act may be cited as the Local Government (Amendment) Act 1994.

Amendment of Section 2

2. Section 2 of the Local Government Act 1984 is amended at subsection (1) by repealing the word "president" and its entire definition and substituting the following -

"Tibi Kauntira" shall include the Kauoman-n-Tibi Kauntira and in sections 24, 25 and 31 shall include any other person presiding at any meeting of a council".

Amendment of other related sections

3. Any section of the Local Government Act 1984 where the words "president" and "vice president" appears is amended by repealing the two words and substituting the words "Tibi Kauntira" and the Kauoman-n-Tibi Kauntira respectively.

This printed impression has been carefully examined by me with the bill which passed the Maneaba ni Maungatabu on 20th May, 1994 and it is found by me to be a true and correctly printed copy of the said Bill.

AD. S. C.

Clerk

to the Maneaba ni Maungatabu.

Published by exhibition -

(a) at the Maneaba ni Maungatabu

this 28th day of June 1994

K. B. S. C.
Clerk to the
Maneaba ni Maungatabu

LOCAL GOVERNMENT (AMENDMENT) ACT 1994

EXPLANATORY MEMORANDUM

The purpose of the Act is to change the titles of President and Vice President to Tibi Kauntira and the Kauoman-n-Tibi Kauntira respectively.

T. YITO MP
(Urban Tarawa)

REPUBLIC OF KIRIBATI
(No. 12 of 1995)

I assent

Tebhio
Bereitenti

23/10/1995

AN ACT TO AMEND THE LOCAL GOVERNMENT (1984)

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

Short title and commencement

1. This Act may be cited as the Local Government (Amendment) Act 1995.

Amendment of section 2

2. Section 2 of the Local Government Act 1984 (hereinafter referred to as the Principal Act) is hereby amended by inserting between the definition of "resolution" and the definition of "town council" the following new definitions:-

"Special Member" means a member of a council nominated by the Te Botaki ni Unimaane.

"Te Botaki ni Unimaane" means an association, group or body of elderly men recognised by the council as representing the people of the island within which the area of authority of such council lies.

Amendment of section 7

3. Section 7 of the Principal Act is amended by-

- (i) inserting between "paragraph (a)" and "paragraph (b)" a new paragraph as follows:-

"(b) every special members shall become a member of the council" and

- (ii) reparagraphing the existing "paragraph (b)" as "(c)".

Amendment of section 8

4. Section 8 of the Principal Act is amended by-

(i) inserting between "paragraph (a)" and "paragraph (b)" a new paragraph as follows:-

"(b) every special member shall become a member of the council." and

(ii) reparagraphing the existing "paragraph (b)" as "(c)".

Insertion of a new section 12A

5. The Principal Act is amended by the insertion between Section 12 and Section 13 a new "Section 12A" as follows:-

"Tenure of Office of a special member.

12A. (1) Every special member shall cease to a member of the Council-


(a) upon the revocation of his nomination by 'Te Botaki ni Unimaane';

(b) if by writing addressed to 'Te Botaki ni Unimaane' and the 'Tibi Kauntira' he resigns his seat; or


(c) if he accepts nomination as a candidate for election to the Council.

(2) Any person whose seat as a special member in a council has become vacant may again be nominated as a member of a council from time to time."

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 14th August 1995 and is found by me to be a true and correctly printed copy of the said Bill.


Clerk to the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this 30th
day of October 1995


Clerk to the Maneaba ni Maungatabu

LOCAL GOVERNMENT (AMENDMENT) 1995

EXPLANATORY MEMORANDUM

The Principal object of this Act is to amend the Local Government Act 1984 (hereinafter referred to as the Principal Act) so as to provide for the inclusion of a member of the Old Men's Association, otherwise known as "Te Botaki ni Unimaane" to be a member of the Council for every island throughout Kiribati.

In order to achieve this objective, Sections 7 and 8 of the Principal Act are amended to enable "Te Botaki ni Unimaane" for a particular island to have one of their members become a member of the Council. Such member shall be called a special member and shall have been nominated by "Te Botaki ni Unimaane" for that island. (see Sections 3 and 4 of the Act.)

Section 5 of the Act provides for the Tenure of Office of the special member of the Council to be as follows:

- 1) that such special member remain a special member of the Council until "Te Botaki ni Unimwane" decides otherwise or in other words, if "Te Botaki ni Unimwane" revokes his nomination;
- 2) if the special member resigns his seat, he shall do so by writing to "Te Botaki ni Unimwane" who nominated him, and the "Tibi Kauntira" and
- 3) that if the special member accepts a nomination as a candidate for election to the Council, such "special member ceases to become a special member of the Council.

Michael N Takabwebwe
Attorney General
11 February 1995

26 (Two Cents)
16 (One Cent)

\$ 200
\$ 100

for Secretary to the Chief Minister.

Legal Notice No. 38

LOCAL GOVERNMENT ORDINANCE 1966
(NO. 5 OF 1966)

TE INAINANO URBAN COUNCIL (BUSINESS LICENCES)
BYE-LAWS 1975

IN exercise of the powers conferred by Section 50 of the Local Government Ordinance 1966 the TE INAINANO URBAN COUNCIL has by formal resolution dated the 18th day of January 1979 made the following Bye-Laws:-

1. These Bye-Laws may be cited as the TE INAINANO URBAN COUNCIL (BUSINESS LICENCES) Bye-Laws 1975.

Citation

2. Section 14 of TE INAINANO URBAN COUNCIL (BUSINESS LICENCES) Bye-Laws 1975 is amended by substituting for it the following:

Amendment of
Section

14(1) The issue of a cafe, bakery, store or hairdresser's licence is subject to a satisfactory health report by the Council's public health officer and if it appears to the Council that any premises, the owner of which holds a licence under these Bye-Laws (the licensee), are in such a state as to be prejudicial to health, or a nuisance, the Council may serve on the licensee a notice stating that the Council intend to remedy the defective state and specifying the defects which they intend to remedy.

(2) Subject to the next following sub-paragraph, the Council may, after the expiration of nine days after service of a notice under the foregoing sub-paragraph, execute such works as may be necessary to remedy the defective state, and may recover the expenses reasonably incurred in so doing from the licensee.

(3) If, within seven days after service of a notice under sub-paragraph (1) of this paragraph the licensee on whom the notice was served, serves a counter-notice that he intends to remedy the defects specified in the first mentioned notice, the Council shall take no action in pursuance of the first mentioned notice unless the licensee who served the counter-notice either -

- (a) fails within what seems to the Council to be a reasonable time to begin to execute works to remedy the said defects; or
- (b) having begun to execute such works fails to make such progress towards their completion as seems to the Council reasonable.

(4) In proceedings to recover whether the Council was justified in concluding that the premises were in a defective state, and

(b)

(4) In proceedings to recover expenses under this paragraph, a Magistrates' Court:

(a) shall enquire whether the Council was justified in concluding that the premises were in a defective state, and

(b) if the licensee proves that he served a counter-notice under sub-paragraph (3) of this paragraph shall enquire whether the licensee failed to begin the works to remedy the defects within a reasonable time or failed to make reasonable progress towards their completion.

and if the Magistrates' Court determines

(i) that the Council was not justified in either of the conclusions mentioned in paragraph (a) of this sub-paragraph, or

(ii) that there was no failure under paragraph (b) of this sub-paragraph,

the Council shall not recover the expenses or any part of them.

TEINAINANO URBAN COUNCIL SEAL

KAKIABA TEKANENE
SIGNATURE OF PRESIDENT

Approved by the Minister this 11th day of April 1979.

HON. I.T. TABAI
Minister for Local Government

Published by public exhibition at the office of the Council
31st day of May, 1979.

BUNATAO A RIOKA
Clerk to Teinainano Urban Council

Legal Notice No. 11

LOCAL GOVERNMENT ORDINANCE 1966
(NO. 5 OF 1966)

TAMANA ISLAND COUNCIL AERODROMES

(LANDING FEES) BYE-LAWS 1979

IN exercise of the powers conferred by section 50 of the Local Government Ordinance 1966, the Tamana Island Council has by formal resolution dated the 10th of July 1979 made the following Bye-Laws:-

Citation

1. These Bye-Laws may be cited as the Council Aerodromes (Landing Fees) Bye-Laws 1979.

Interpretation

2. In these Bye-Laws -

"Council" meant the Tamana Island Council;

"Council aerodrome" means any area of Land designed, equipped or set apart or commonly used for affording facilities for the landing and departing of aircraft and maintained by the Council for that purpose;

"schedule operator" means any person or body operating or about to operate a scheduled air service involving the land of aircraft at a Council aerodrome.

Landing Fees

3. Subject to the exemptions specified in bye-law 7 a landing fee of five dollars shall be paid in respect of each landing of an aircraft at a Council aerodrome.

Payment of Landing Fees by schedule operators

4. (1) Subject to paragraphs (2) and (3) every schedule operator shall make a payment to the Council in respect of landing fees for the twelve months ending on the 31st day of December in any year on or before the immediately preceding 31st day of December.

(2) Every schedule operator shall on demand by the Council make a payment to the Council in respect of landing fees for the period commencing on the day these bye-laws come into operation and ending on the 31st day of December next following that day.

(3) Every person or body who or which becomes a schedule operator after the coming into operation of these Bye-Laws shall on demand by the Council make a payment to the Council in respect of landing fees for the period commencing on the day the person or body becomes a schedule operator and ending on the 31st day of December next following that day.

(4) The amount to be paid under paragraph (1) shall be calculated on the basis that eighty-five per centum of the anticipated landing will be made and the amount to be paid under paragraph (2) or (3) shall be calculated on the same basis where the demand is for payment in advance.

(5) At the end of every twelve months' period specified by paragraph (1) and, where payment has been demanded in advance, at the end of every period specified by para-

(3) The Council may with the prior approval of the Administrative Officer in charge of the district by notice designate any aircraft or class of aircraft for the purpose of this bye-law.

(4) Every notice under paragraph (3) shall be published by exhibiting a copy of it together with a translation thereof in the vernacular at the Office of the Council and shall come into operation on the date of such publication or on such later date as may be therein specified.

Tamana Island Council
9th October, 1979

Seal

TARATI NABETARI

Signature of President

Approved by the Minister this 26th day of November, 1979.

TEATAO TEANNAKI
Minister for Home Affairs

Published by public exhibition at the Office of the
Council this day of 19..

Clerk

KIRIBATI GAZETTE

Friday 24th April, 1981

No. 4

SUPPLEMENT NO. 4

Legal Notice No. 16

THE LOCAL GOVERNMENT ORDINANCE 1966
(NO.5 OF 1966)

MAKIN ISLAND COUNCIL (CONTROL OF ROADS
BYE-LAW 1979)

In exercise of the powers conferred by Section 50 of the Local Government Ordinance, 1966, the Makin Island Council has, by formal resolution dated the 3rd July, 1979 made the following Bye-Laws:-

1. These Bye-Laws may be cited as the Makin Island Council (Control of Roads) Bye-Laws, 1979, and shall come into force on 3rd day of July, 1979.

2. In these Bye-Laws unless the context otherwise requires:-

"Council" means the Makin Island Council;

"tree" means any plant, bush, tree or other vegetable matters

"pit" means any hole or other excavation;

"public road" means any street, path or passage used or frequented by the public or to which the public have access.

3. No person shall within fifteen feet on either side of the centre of a public road grow, or allow to be grown, any tree.

4. No person shall dig or construct or allow to be dug or constructed any pit within fifteen feet of either side of the centre of a public road.

5. The Council may order the removal of any tree growing within fifteen feet of either side of the centre of a public road if in the opinion of the Council the tree is a present or potential danger to traffic or to passers-by.

6. The Council may order the filling in of any pit built within fifteen feet of either side of the centre of a public road if in the opinion of the Council the pit is a danger to traffic or to passers-by.

7. Save in respect of any tree growing and any pit built prior to the date of the commencement of these Bye-Laws, the Council shall not be liable to pay any compensation in respect of trees destroyed or removed in compliance with an order under Bye-Law 5 or of pits filled in compliance with an order under Bye-Law 6.

Citation and Commencement.

Interpretation.

Planting of Trees

Digging of Pits.

Removal of Trees.

Filling of Pits.

Saving and Compensation.

Service of
Orders.

8(1) Any order made by the Council under Bye-Law 5 or 6 shall be signified under the hand of the Council's Executive Officer and shall be served personally by any officer of the Council upon the person upon whose land the tree to be removed is planted or pit dug.

(2) - If the owner of the land cannot after reasonable enquiry be found the order shall be deemed to have been duly served if it is publicly exhibited at the Office of the Island Council for two weeks.

Recovery of
Council
Expenses.

9. Where any person served with an order of the Council under Bye-Law 8 fails within three weeks of the service to comply with the requirement of the order, the Council may cause such work as may be necessary to comply with the requirements of the order to be carried out and may recover any expenses incurred from that person.

10. Any person who -

- (a) acts in contravention of the provisions of Bye-Law 3 or 4, or
- (b) fails to comply with the requirements of an order under Bye-Law 5 or 6,

shall be guilty of an offence and shall be liable to a fine of twenty dollars or in default of payment to imprisonment for six weeks.

Makin Island Council

TIMON
Signature of President

Council Seal

Approved this 18th day of November, 1980.

T. TEANNAKI
Minister for Home Affairs.

Published by public exhibition at the office of the Makin Island Council this 10th day of February, 1981.

Executive Officer,
Makin Island Council.

Legal Notice No. 17

REPUBLIC OF KIRIBATI
PRICES ORDINANCE, 1976
PRICES REGULATION (NO.1) OF 1981 AMENDMENT ORDER

In exercise of the powers conferred in me by Section 3(1) of the Prices Ordinance (Cap.75 of the Laws of Kiribati 1977), I hereby make the following Order:-

1. This Order may be cited as the Prices Regulation Order (No.1) of 1981 Amendment Order and shall come into operation on the 2nd day of April, 1981.
2. Part 1 of the schedule to the Prices Regulation Order (No.1) of 1981 is amended by deleting the prices referring to Rice, Ox & Palm Corned Beef and Twist Tobacco and substituting the following new prices:-

Short title
and Commence-
ment.

Amendment of
Part 1 of the
Schedule to
the Prices
Regulation
Order (No.
1) of 1981.

Commodities Prices of some of the

Rice (excluding prepacked not exceeding 2 kgms in wt)	0.38¢ per lb
Ox & Palm Corned Beef	\$1.60 per 12 oz tin
Tobacco	0.31¢ per stick

Dated this 2nd day of April, 1981.

TAOMATI T. IUTA
Mini Minister of Trade, Industry and Labour

Published by exhibition at the Public Office of the Beretitenti this 2nd day of April, 1981.

M E TERUBEA
for Secretary to the Cabinet

Legal Notice No. 18

REPUBLIC OF KIRIBATI
ARMS AND AMMUNITION ORDINANCE
(Cap. 3)

ARMS AND AMMUNITION (FEES) (AMENDMENT)
REGULATIONS, 1981

In exercise of the power conferred by section 47 of the Arms and Ammunition Ordinance, the Beretitenti, acting in accordance with the advice of the Cabinet, hereby makes the following Regulations -

1. These Regulations may be cited as the Arms and Ammunition (Fees) (Amendment) Regulations, 1981.

Citation.

2. Schedule 1 of the Arms and Ammunition Regulations is hereby repealed and the following Schedule substituted -

Repeal and substitution of Schedule 1 of principle Regulations.

SCHEDULE 1
FEES

	Recommended Fees
In respect of every application for a licence to possess, use and carry arms and ammunition (Provided that if the application is granted, this fee shall be included in the licence fee)	\$ 7.50
On first issue of a licence	15.00
on renewal (including application)	15.00
For a licence to purchase or obtain a transfer of arms	5.00
For a licence to purchase or obtain a transfer of ammunition	2.50
For a licence to import arms and ammunition	2.50
For a licence to export arms and ammunition	2.50
For a licence to deal in or to repair arms and ammunition per annum	50.00

For a licence to replace one destroyed,
defaced or lost 1.00

For transporting arms within Kiribati in
accordance with section 16 Actual cost of
Transportation

Provided that the fee to be charged for any annual licence
which is issued between the 1st day of July and the 31st
day of December of the same year shall be only half of the
annual fee.

Dated the 14th day of April, 1981.

I. T. TABAI
BERETITENTI

Published by exhibition at the Public Office of the Beretitenti
on the 14th day of April, 1981.

M. E. TERUBEA
for Secretary to the Cabinet

Legal Notice No. 19

INSURANCE ACT, 1981
(No. 3 of 1981)

In exercise of the powers conferred upon me by section 1 of the
Insurance Act, 1981, I hereby give notice that the Act shall
come into force on 1 June, 1981.

TIWAU AWIRA
Minister of Finance

Published by exhibition at the Public Office of the Beretitenti
on the 27th day of May, 1981.

M. E. TERUBEA
for Secretary to the Cabinet

approved by the Registrar of Companies January 1982.

E. TONGANIBEIA
for Secretary to Cabinet

Dated this 25th day of January

Legal Notice No. 4

LOCAL GOVERNMENT ORDINANCE CAP. 51

KIRITIMATI LOCAL GOVERNMENT

CONTROL OF CHILDREN AND YOUNG

PERSONS ORDER - 1981

In exercise of the powers conferred by the Kiritimati (LOCAL GOVERNMENT FUNCTIONS) Order, 1981 the Secretary for the Line and Phoenix Groups hereby makes the following Order:-

Citation and enforcement

1. This Order may be cited as the Kiritimati Control of Children and Other Young Persons Order and shall come into force on the 1st May, 1982.

Interpretation

2. In this Order unless the context otherwise requires "Secretary" means the Secretary for the Line and Phoenix Groups;

"person responsible" means any person for the time being responsible whether temporarily or otherwise for the care of a young person;

"public place" means any place to which for the time being the public or any section of the public are entitled or permitted to have access whether on payment or otherwise;

"young person" means any child or other young person under the age of fifteen years.

Prohibition of young persons being in place accompanied at night

3. When any young person is found between 10 p.m. and 6 a.m. in a public place outside the immediate vicinity of the house or other building in which he is then lawfully staying not accompanied by and in the immediate and effective care and control of a person of or above the age of twenty-one years the person responsible shall be liable to a fine of twenty dollars or in default of payment of imprisonment for six weeks.

Legal proceedings

4. - (1) Where in any proceeding under this Order it is alleged that a person was at any time under the age of fifteen years and he appears to the court then to have been under that age he shall be deemed for the purposes of the proceedings to have been then under that age unless the contrary is proved.

(2) In any proceedings for an offence under this Order the proof that any young person was accompanied by and in the immediate and effective control of a person of or above the age of twenty-one years shall lie upon the

person charged with the offence.

5. The Secretary may suspend the operation of this Order for a particular occasion such suspension to be advertised at the Office of the Secretary and all Police stations in on Kiritimati.

Special
Provision

6. - (1) No offence shall be committed under this Order if the young person is in a public place -

Exeptions

(a) solely for the purpose of seeking or obtaining help -

(i) for the alleviation or treatment of the pain, sickness or injury of himself or another person; or

(ii) for the prevention of injury or damage or further injury or damage to any person or property; or

(b) solely for the purpose of relieving himself or proceeding to or from relieving himself in a lavatory in the vicinity of the house or other building in which he is then lawfully staying.

(2) In any proceedings for an offence under this Order the proof that any young person was in a public place for any of the purposes specified in subsection

(1) shall lie upon the person charged with the offence.

KIRITIMATI
4th February 1982

JOHN IKAKEAU TONGANIBEIA
Secretary Line & Phoenix Groups

Published and exhibited at the public office of the Beretitenti this 26th of February 1982.

4th February, 1982

RITEMA BETAIA
for Secretary to the Cabinet

...
...
...

Legal Notice No. 118
LOCAL GOVERNMENT ORDINANCE CAP. 151
KIRITIMATI LOCAL GOVERNMENT

CONTROL OF ANIMALS ORDER 1982
In exercise of the powers conferred by the Kiritimatidasi (Local Government Functions) Order, 1981 the Secretary for the Line and Phoenix Groups hereby makes the following Order:

Citation

Interpretation

...

Prohibition

...

1. This Order may be cited as the Kiritimatidasi Control of Animals Order 1982 and shall come into force on 1st day of May 1982.

2. In this Order unless the context otherwise requires:
"animal" means a domesticated living vertebrate animal;
"clerk" means a person appointed to act as clerk;
"secretary" means the Secretary for the Line and Phoenix Groups;
"owner" means a person who is required by this Order to possess a certificate to own an animal or a person who confines an animal;
"inspector" means a police officer or any person appointed by the Secretary to enforce this Order;
"household" means the place where an animal habitually is kept or is fed;
"certificate" is a written authorisation to own a single specified animal, other than an animal in confinement;
"register" means a register of animals and their owners other than those in confinement and their owners;
"confinement" means any form of penning or tethering to keep an animal from straying;
"male" includes a female in respect of which a Veterinary Surgeon or other qualified officer has provided a certification that the animal has undergone a surgical operation to prevent pregnancy.

3. (1) Dogs and cats and all other animals which the Secretary may specify from time to time must be male in order to be owned under this Order and to own such animals the owner must apply for a certificate;

(2) A separate certificate is required for each animal;

(3) The Secretary may require a class of animals to wear a badge or other form of identification for a specified period or indefinitely;

(4) An animal other than a dog or cat or other animal specified under sub-section (1) may, in addition to the requirement for a certificate, be required to be kept under confinement at times when the animal is not used or accompanied by the owner or another person of the

age not under 18 years; (5) No person under the age of 18 may own an animal.

Applications
for
Certificate

4. (1) Application for certificate to own a dog or cat or any other animal specified under section 3 (1) shall be made to the Clerk immediately on the next working day after following the arrival of the animal on Kiriritimati;

(2) Any person who keeps an animal specified in sub-section (1) above prior to the coming into force of this Order shall within six months from the date this Order is exhibited for public notice on Kiriritimati apply for a certificate for that animal;

(3) Failure to apply for a certificate as required in the foregoing sub-sections shall render the owner liable to a fine of \$2 for every day he has failed to make an application;

(4) Upon approval of the application a certificate will be issued on payment of the fee specified in the Schedule to this Order, provided that the amount of such fee may be amended from time to time by notice signed by the Secretary.

Register

Register

5. (1) The name of every owner of an animal for which a certificate is required and the household to which he belongs shall be entered in a register which shall show the type of animal, its name, estimated age and its description by colour or other means of identification;

(2) The household so entered in the register shall for the enforcement of this Order be deemed the home of the animal so registered.

Display,
validity and
cancellation of
certificate

6. (1) Every certificate must be displayed conspicuously in the household of the owner and every damaged certificate must be replaced upon payment of the fee specified in the Schedule to this Order, provided that the amount of such fee may be amended from time to time by notice signed by the Secretary;

(2) A certificate is valid so long as the animal lives and shall not be transferable to any other animal;

(3) A certificate may be cancelled if:

(a) the animal appears to be neglected;

(b) the animal appears to suffer from contagious disease;

(c) the animal appears to be dangerous or to be a nuisance to other households;

(d) it is believed beyond reasonable doubt that the animal is likely to disturb or threaten any natural environment or wildlife on Kiriritimati.

Animal pens

Animal pens

7. (1) No person shall keep animals other than those for which a certificate is required unless such animals are kept in confinement;

(2) Subject to subsection (3) confinement shall be in the form of penning;

(3) An animal may be confined by being tethered with the approval of the Secretary given in writing. Provided that an animal seized under Section 10 (2) may be tethered until it is sold if seized by an inspector or a period not exceeding forty-eight hours if seized by a person other than the owner.

Confinement

(1) Every pen must be of adequate dimensions for the good health of the confined animals and be strong enough so as not to be vulnerable to breakage by the animals confined therein or by straying animals from outside of it;

(2) The height of the walls around a pen may be specified from time to time by the Secretary provided that the height of the walls of a pig-pen shall not be less than ninety centimetres from the ground;

(3) An inspector may require any owner to improve any part of the pen by notice in writing and that person shall carry on the necessary improvements within two weeks from the date he received the instruction and upon failure to make the required improvements shall be guilty of an offence;

(4) Pens must not be erected within thirty metres from a dwelling or drinking well;

(5) The Secretary may declare from time to time an area or areas where pens shall not be erected and every pen that has already been erected in such areas shall be removed by the owner at his own expense, provided that where an owner fails to remove his pen within the time specified the Secretary may instruct any person to remove the pen and the cost of such removal shall be recoverable from the owner;

(6) The Secretary may specify an area or areas where pens may be erected either with or without a charge, and may specify that within any locality pens shall only be erected within the specified area or areas.

to be removed
to be removed
to be removed
to be removed

9. Pups and kittens of the male sex found in places other than dwellings may be owned on application for a certificate within forty-eight hours from the time the animal was brought to the household of the person who found the animal and upon failure to do so that person shall be liable to a fine of \$2 for every day after the forty-eight hours requirement that he has failed to make an application,

Special Provisions

X

10. (1) An animal shall be deemed unowned by any person if in the case of those for which a certificate is required the certificate is either not granted or invalidated under Section 6 or the animal does not wear an identification badge where this is required or in the case of others the animal is not confined and such an animal shall be deemed to be the property of the Government;

Unowned animals, destruction and seizure

(2) When an animal becomes the property of the Government under the foregoing sub-section and upon seizure by an inspector or a person in the curtilage of whose home the animal encroached, an inspector shall:

(a) in the case of animals specified in Sec. 3(1) destroy or order the destruction of the animal immediately;

(b) in the case of other animals take one of the following actions forty-eight hours after the seizure of the animal;

(i) sell the animal by public auction any time

after forty-eight hours from the time of seizure and at a place and time of which 24 hours public notice shall have been given by the inspector and the proceeds from such a sale shall be paid into Government funds; or

(ii) pass ownership of the animal to the person who seized the animal within the curtilage of his home.

(3) A previous owner of an animal which is under seizure shall within forty-eight hours from the time of seizure have the right to claim the animal, after which time the animal shall be deemed to be the property of the Government. Provided that where the animal was seized by an inspector the animal shall only be returned to the previous owner after payment of a fee of \$2.

(4) Where in pursuance of subsection (2) paragraph (a) the previous owner of the animal is required to destroy the animal that person shall destroy the animal and it shall be an offence to fail to do so.

(1) It shall be an offence for an owner of an animal for which a certificate has been issued to neglect that animal and such offence shall not be waived by a court by reason that the certificate may subsequently have been cancelled in accordance to section 6(3)(a);

(2) It shall be an offence for any person including the owner to let an animal out of confinement except to release the animal from menace of fire or other peril, provided that prior approval for such release for other reasons may be obtained from an inspector;

(3) It shall be an offence for any owner or other person having charge of an animal to permit it to kill, hunt or otherwise damage or disturb any bird or protected animal or its eggs or nest.

12. Baby animals found in places other than dwellings must be either destroyed or reported to the clerk or an inspector within forty-eight hours from the time the baby animals were found and failure to do so shall be an offence.

13. An inspector shall have the right to enter and search any dwelling house or other property between the hours of 8.00 a.m. and 6.00 p.m. if he has reasonable grounds for believing that an uncertificated animal is to be found therein.

14. Any person who contravenes or fails to comply with any of the provision of this Order for which no penalty is provided shall be liable to a fine of twenty dollars or in default of payment to imprisonment for six weeks.

Schedule

	Registration Fee	Replacement of certificate
Cat	\$1	50¢
Dog	4	\$1

Offence by owners or other persons

Duty on finding of animals

Right of Search

Penalties

10 \$2
 Kiritimati JOHN IKAKEAU TONGANIBEIA
 15th March, 1982 Secretary for the Line & Phoenix Group

Published and exhibited at the public office of the Beretitenti this 29th of April, 1982.

29th April, 1982 ATANRAOI BAITEKE
 Ag. Secretary to the Cabinet

Legal Notice No. 19

LOCAL GOVERNMENT ORDINANCE CAP 51
 KIRITIMATI LOCAL GOVERNMENT
 BUSINESS LICENCE ORDER

In exercise of the powers conferred by the Kiritimati Local Government Functions Order, 1981 the Secretary for the Line and Phoenix Groups hereby makes the following Order:-

1. This Order may be cited as the Kiritimati Business Licence order 1982 and shall come into force on 1st day of July 1982.
2. In this Order, unless the context otherwise requires -
 "Secretary" means the Secretary for the Line and Phoenix Groups;
 "locality" means a town, village or settlement.
3. (1) Every person exercising or intending to exercise any of the trades specified in the Schedule must apply for a business licence which shall be issued upon payment of a licence fee;
 (2) The Secretary may attach to a business licence such conditions as are reasonable and it shall be an offence to contravene any of such conditions;
 (3) A business licence shall entitle the licensee carry on only that trade specified in the licence;
 (4) Annual licence fees for a main or first store are as specified in the schedule and such fees may be amended by notice from time to time by the Secretary;
 (5) Annual fees for a branch store shall be one quarter that of the main or first store or \$10 whichever is the greater;
 (6) The fee for a half-yearly licence shall be half the fee for a yearly licence plus \$2.00
4. (1) Any trade specified in the Schedule that is practised as a part-time activity may be public notice be exempted in whole or in part from the payment of the fee specified for that trade when no one in the locality has been licenced to carry on that trade;
 (2) The Secretary may suspend or cancel a business licence if it is shown beyond reasonable doubt that the licensee in exercising his trade adopts a discriminatory attitude either in servicing or in charging customers;
 (3) A licensee who continues to trade during the

Citation

Interpretation

Licences

Exemption, suspension and cancellation

suspension or after the cancellation of his licence shall be liable to a fine of twenty dollars plus two dollars for each day on which the offence has continued.

Duration of licences

5. (1) Licences issued under this Order shall be issued for yearly or half-yearly periods;

(2) A yearly licence shall expire on the 31st day of December of the year in which it is issued and a half-yearly licence shall expire on 30th June or 31st day of December whichever day follows next after the date of issue. Provided that a passenger-carrying licence issued under Sec. 9 shall expire if the insurances specified therein become invalid.

Stated Premises

6. Subject to Sec. 14(2) a licence issued under this Order, except that of a hawker, shall only be valid for the premises stated in the licence and it shall be an offence to trade in other premises.

Transfer

7. A business licence subject to prior written approval of the Secretary may be transferred on payment by the transferee of a fee of \$10 and such transfer must be endorsed by the Secretary.

Replacement of Licence

8. A lost or damaged licence must be replaced with a duplicate licence which shall be issued on payment of a fee of \$2.

Vehicle licence

9. (1) A trading licence for a bus, taxi or any other transport or transportation service shall only be granted or renewed on production by the applicant of proof that the vehicle is road-worthy;

(2) An applicant for a bus licence shall provide the following information, none of which shall be altered without the approval of the Secretary -

- (a) the frequency of the service
- (b) routes to be followed
- (c) bus stop locations
- (d) fares to be charged

(3) Licensees for a bus, taxi and other passenger-carrying services must at all times during the current life of the licence possess:

- (i) a valid third party insurance at a level approved by the Secretary;
- (ii) a valid insurance for passengers at a level approved by the Secretary.

Failure to possess such valid insurances cancels the licence.

(4) The operator of a bus service who installs or proposes to install bus stop markers must first obtain the approval of the Secretary who may remove any markers and not so approved.

Hawker's licence

10. A hawker shall only sell his goods in a market, maneaba or other public place approved by the Secretary or from a cart, basket or any other container carried by hand.

11. A store licence shall entitle the licensee to sell consumer goods including hardware and electrical appliances.

Store licence

12. A garage licence shall entitle the licensee to repair vehicles and to sell vehicles spare parts.

Garage licence

13. A cafe licence shall not include other functions which require separate licences.

Cafe licence

14. (1) A fish selling licence shall only be required for the sale of fresh or frozen fish to the public;

Fish-seller's licence

(2) A licenced fish-seller may sell his fish by hawking.

Provided that a fisherman who fishes solely for food for his family may sell that portion of his own catch surplus to his requirements without a licence.

15. Any licence issued under this Order shall not entitle the holder to claim that a limit be set for the number of licences that may be issued for a particular trade or that no more licences be issued for a particular trade.

No limit for the number of licences

16. Any person who acts in breach of his licence or any provision of this Order shall be liable to a fine of twenty dollars or in default of payment to imprisonment for six weeks.

Penalties

SCHEDULE

	Annual licence fee
Bakery	\$25
Boat Building and repair shop	50
Bus service	75
Carpentary workshop	25
Fish-seller	25
Construction business	100
Electrical and radio repair shop	25
Factory operator	100
Garage operator	75
Hawker	50
Car dealers	200
Laundry	25
Plumber and tinsmith	50
Photographic Studio	25
Store	75
Taxi and hire vehicle service	50
Fuel outlet	25
Tailors or dressmakers shop	25
Cafe	50
Any trade not specified above	25
Stall	\$5 per 24 hours

Kiritimati
8th March 1982

JOHN IKAKEAU TONGANIBEIA
Secretary for the Line
& Phoenix Group

Published and exhibited at the public Office of the Bereti-

tenti this 29th of April 1982.

Minister of Education and Science, Hon. Sir James G. Wilson

29th April 1982

Ag. Secretary to the Cabinet

of education and science shall include the following:

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KIRIBATI GAZETTE

FRIDAY, 29 MAY, 1992

SUPPLEMENT No. 4

LOCAL GOVERNMENT ACT 1984

KIRITIMATI ISLAND

(LICENSING OF PUBLIC ENTERTAINMENT) ORDER 1992

In exercise of the powers conferred by Kiritimati Island (Local Government Functions) Order, 1981, the Secretary for the Ministry of the Line and Phoenix Development hereby makes the following Order:-

Citation

1. This Order may be cited as the Kiritimati Island (Licensing of Public Entertainment) Order 1992.

Interpretation

2. In this Order unless the context otherwise requires -

"Clark" means the Executive Officer of the Ministry of the Line and Phoenix Development;

"place of public entertainment" means any building or structure or open space whether private or not on which a public entertainment takes place but does not mean a licensed club or cinema or any place that the Secretary may exempt from the provisions of this Order under Order 10;

"public entertainment" means any dance, party, island night or other like entertainment to which the public is admitted upon payment of an admission fee or other form of payment, however made, or at which food or drinks are sold to the public;

"Secretary" means the Secretary for the Ministry of the Line and Phoenix Development.

Place of entertainment to be licensed

3(1) No person shall keep or use or allow to be kept or used any place of public entertainment without a licence issued by the Secretary.

(2) A licence may be issued for such period and upon payment of such fee prescribed in the Schedule.

(3) Where in any proceedings for an offence under this Order it is proved that a public entertainment was held on any premises on at least two occasions within a period of eight weeks immediately before the proceedings were instituted the court shall presume that these premises were kept or used or allowed to be kept or used as a place of public entertainment unless the contrary is proved.

(4) The Secretary may attach such conditions to any licence as are reasonable.

(5) A person who contravenes sub order (1) shall commit an offence.

Holding entertainment at places of public entertainment without approval

4(1) No person shall hold, present or organize a public entertainment at a place of public entertainment without the prior approval in writing of the Secretary.

(2) Such approval may be obtained upon application and upon payment of the fee fixed by the Secretary and prescribed in the Schedule.

(3) Any person who contravenes paragraph (1) shall commit an offence. (d) any request for extension of hours;

(4) Where a public entertainment is held in contravention of sub order (1) the licensee (whether the holder or organizer of the entertainment or not) shall commit an offence. (e) the names of at least two persons responsible for keeping order at the entertainment.

Hours of entertainment

Public entertainment promoters to hold licence

7(1) No public entertainment shall commence before such time as may have been authorized by the Secretary or continue after 11 p.m. of the same day, or after such time thereafter as may have been authorized by the Secretary.

5(1) Any person who holds, presents or organizes a public entertainment on at least two occasions within a period of two months shall be deemed to be carrying on the business of public entertainment promoter.

(2) No public entertainment or island night shall be held on any Sunday, Monday, Tuesday, Wednesday or Thursday during a week in any open space except in a licensed club or licensed hotel.

(2) No person shall carry on the business of public entertainment promoter without a licence issued by the Secretary.

(3) Any person who contravenes sub order (1) and (2) shall commit an offence.

(3) A licence may be issued for such period and such fee as is decided by the Secretary and advertised by public notice.

Burden of proof of certain facts on accused

(4) The Secretary may attach such conditions to any licence as are reasonable.

8. in any proceedings under this Order the proof of the following facts shall lie upon the person charged:-

(5) Any person who contravenes sub order (1) shall commit an offence.

(a) that the occasion of the entertainment was a private occasion;

Application to hold entertainment

(b) that no fee or payment was charged -

6(1) An application to hold a public entertainment under Order 4(2) shall be in writing and shall be submitted to the Secretary not less than three days before the date on which it is proposed to hold the entertainment.

(i) for the hire of the place of entertainment, or

(2) The application must include:

(ii) to persons attending the entertainment;

(a) the name of the licensee of the place of the public entertainment;

(iii) for the food or drinks supplied, and unless such proof is shown, the contrary shall be presumed.

(b) the name of the holder or organizer of the entertainment;

(c) the date and place of the entertainment;

Limitation of proceedings

9. No proceedings shall be instituted under this Order unless commenced within six months after the date of the offence committed thereunder.

10. The Secretary may reduce or remit any licence fee, or exempt any place of public entertainment under or from any provisions of this Order.

11. Any person who commits an offence under this Order or acts in breach of his licence or any provision of his licence shall be liable to a fine of one hundred dollars or in default of payment to imprisonment for six weeks.

SCHEDULE

	<u>FEE</u>
Public Entertainment Building	\$100.00
Holding Island Night	10.00

Dated this 1st day of April, 1988.

K. TABURUEA

Secretary for the Line and Phoenix Development

Published by exhibition at the Public Office of the Beretitenti this 6th day of May, 1992.

T.I. IETAAKE

for Secretary to the Cabinet

LN No. 7

ELECTIONS ORDINANCE 1977

COMPILATION OF REGISTERS OF ELECTORS

In exercise of the powers conferred by Regulation 2(3) of the Elections Regulations and with the approval of the Electoral Commission, I hereby direct that a new Register of Electors shall be compiled for the electoral ward of Abatao within Kiribati with effect from Monday 27th April 1992. No other Register for the said electoral

ward shall have effect from the date aforementioned.

Done at Bairiki, Tarawa this 5th day of May, 1992.

ITINTAAKE EMUATI

Chief Electoral Officer

Published and exhibited at the Public Office of the Beretitenti this 25th day of May, 1992

T.I. IETAAKE

for Secretary to the Cabinet

EXPLANATION

Only people who have registered as voters are entitled to vote in any election. This Notice provides for the opening of a new Register for the electoral ward of Abatao in the North Tarawa electoral district from 27 April 1992. The opening of this New Register is facilitated after being satisfied that the old one is lost without any trace and in good time for the next Council Election scheduled to be held in June 1992.

LN No. 8

**PRICES ORDINANCE, 1977
(Cap. 75)**

PRICES AMENDMENT ORDER OF 1992

In exercise of the powers conferred by Section 3(1) of the Prices Ordinance (Cap 75), I hereby make the following Order:-

Short Title

1. This Order may be cited as the Prices Amendment Order 1992.

Commencement

2. This Order shall be deemed to come into operation on 25 May 1992.

KIRIBATI GAZETTE

SUPPLEMENT NO. 10

30 November 1993

LN No 19

REPUBLIC OF KIRIBATI

CONSTITUTION OF KIRIBATI AND LOCAL GOVERNMENT ACT 1984
(Section 121 of Constitution and Section 3 of the Local Government Act)

WARRANT ESTABLISHING THE BANABA ISLAND COUNCIL

WHEREAS by virtue of section 121 of the Constitution of Kiribati it is provided that "There shall be a Banaba Island Council whose powers and duties shall be prescribed by or under law;" and

WHEREAS by virtue of section 3 of the Local Government Act 1984 (No. 2 of 1984) (as amended) it is provided that the Minister acting in accordance with the advice of the Cabinet and after consultation with such persons who are and over 18 years of age and resident within the area of authority of such Council as are to be established, may establish by warrant under his hand such Councils as he may deem necessary or expedient for the purpose of local government;

NOW THEREFORE in exercise of the powers conferred by section 3 of the Local Government Act 1984 (No 2 of 1984) (as amended) the Minister, acting in accordance with the advice of the Cabinet and after consultation with Banabans who are and over 18 years of age and residing in Banaba at the time when such consultation took place, by Warrant under his hand direct as follows -

Banaba Island Council established

1. There shall be deemed to have been established with effect from the 16th day of April 1993, a Council to be known as the Banaba Island Council.

Common Seal or Stamp

2. The Common Seal of the said Council shall be the following device:-

- (i) A frigate bird in flight above a symbolic representation of the sun rising from the ocean, the whole surrounded by a circle bearing the words, that is to say: "The Common Seal of the Banaba Island Council".
- (ii) Until such time as a seal as prescribed in sub-paragraph (i) of this paragraph is available, a stamp of the same description may be used as the common seal.

Area of Authority

3. The area of authority of the Council shall be the island of Banaba.

Membership

4. The Council shall consist of 3 members.

Powers duties and functions

5. (i) The Council shall exercise all those powers, duties and functions conferred upon it by the Local Government Act 1984 (as amended) or by any other law for the time being in force.

(ii) The Council may exercise all or any of the functions set out in the following paragraphs of the First Schedule to the Local Government Act 1984 (as amended).

1. Agriculture, Livestock and Fisheries -

- (a) to provide services for the improvement of agriculture;
- (b) to control plant diseases, weeds and pests;
- (c) to control or exterminate insect, animal or other pests detrimental to crops;
- (d) to control methods of husbandry;
- (e) to regulate areas and methods of planting and types of crops and trees;
- (f) to provide service for the improvement of livestock;
- (g) to prohibit, restrict or regulate the movement of livestock in or through the council area;
- (h) to prohibit, restrict or regulate the keeping of livestock of any description;
- (i) to establish, maintain and control pounds, seize and impound any stray animal, and provide for the payment of compensation for damage done by such animal;
- (j) to prohibit cruelty to animals and any specified acts of cruelty to animals;
- (k) to establish, erect, maintain and control slaughter houses;
- (l) to provide for the control, destruction and licensing of dogs;
- (m) to prevent and control the outbreak or the prevalence of any disease among animals;
- (n) to provide for the improvement and control of fishing and related industries;
- (o) to prohibit, restrict or regulate the hunting, capture, killing or sale of animals; reptiles, birds or fish or any specified kind of animal, reptile, bird or fish.

2. Buildings and Town or Village Planning -

- (a) to regulate and control the erection and construction, demolition, re-erection and reconstruction, conversion and re-conversion, alteration, repair, sanitation and ventilation of public and private buildings and structures;
- (b) to provide for buildings lines and the layout of buildings;
- (c) to make advances upon such conditions as may be approved by the Minister for the purpose of enabling persons to build or buy dwelling houses;

- (d) to prepare and undertake or otherwise control schemes for improved housing layouts and settlements;
- (e) to prescribe the conditions to be satisfied by a site for any building or for any class of building;
- (f) to prohibit the construction of any new building unless and until the approval of the council has been obtained;
- (g) to provide for the demolition of dangerous buildings and for the recovery of any expenses incurred in connection therewith;
- (h) to prohibit or regulate the use in any defined area of any inflammable material in the construction or repair of any building;
- (i) to build, equip and maintain social or sporting centres, public libraries and museums, communal feeding centres, restaurants, rest houses, or buildings designed and used for public or educational purposes;
- (j) to build, equip, maintain and let shops;
- (k) to prohibit or regulate the making of babai-pits or other excavations;
- (l) to control and regulate the siting of advertisements and hoardings or other structures designed for the display of advertisements;
- (m) to regulate the use of natural building and construction materials;
- (n) to establish, erect and maintain public monuments and to make collections of money towards the establishment or maintenance thereof;
- (o) to restrict the use of barbed wire and the use of broken glass or the like on fences and walls;
- (p) to name streets and public places;
- (q) to lay out and adorn any public place by any architectural scheme or ornamentation, including the erection of statues, fountains or other structures.

3. Education -

- (a) to build, equip, maintain or manage any kindergarten, primary school or any other class of school which may be approved by the Minister;
- (b) to grant sums of money towards the establishment, equipment or maintenance of any primary school or any other class of school which may be approved by the Minister;
- (c) to grant and maintain scholarships or bursaries to suitable persons to attend any school or other educational institution in Kiribati or elsewhere;
- (d) to provide for the compulsory education of children of 5 and 15 years;
- (e) to grant sums of money towards the establishment or maintenance of any public library or museum or to any association existing for the promotion of arts and crafts, or recreation and sport, or educational purposes generally.

4. Forestry and Trees -

- (a) to establish, preserve, maintain, improve and control tree nurseries, forests and woodlands and to sell the produce thereof;

- (b) to plant and tend trees in, and remove trees from, any public place.

5. Land -

- (a) to prevent and control erosion of land by the sea or other cause;
- (b) to provide for the fencing of land and for the maintenance and repair of such fencing;
- (c) to engage in and promote the reclamation of land from the sea.

6. Relief and Famine Drought -

- (a) to regulate the areas and methods of planting and types of crops in areas which are liable to drought or famine.

7. Markets -

- (a) to build, equip, open, close and maintain markets, to prohibit the erection of stalls in places other than markets, and to prevent the sale and purchase of goods or stock near established markets;
- (b) to regulate and control markets, including the fixing of and collection of stallages, rents and tolls;
- (c) to fix the days and hours during each day on which a market may be held and to prevent the sale and purchase of goods in markets on any day or any hour except those fixed.

8. Public Health -

- (a) to safeguard and promote public health, including the prevention of and the dealing with any outbreak or the prevalence of any disease;
- (b) to regulate the number of persons permitted to reside in a building or room of any particular size, construction or design;
- (c) to build, equip and maintain, or grant sums of money towards the establishment, equipment or maintenance of any health centre or clinic, or any other medical institution which may be approved by the Minister;
- (d) to build, equip and maintain, or grant sums of money towards the establishment, equipment or maintenance of any institution or settlement for the aged, destitute or infirm or for orphans or lepers;
- (e) to exterminate and prevent the spread of mosquitoes, rats, bugs and other vermin;
- (f) to establish and operate ambulance services or to make grants towards such services;
- (g) to establish, maintain and carry out sanitary services for the removal and destruction of, or otherwise dealing with, all kinds of rubbish, refuse or excrete;
- (h) to control and provide for offences in respect of any act or omission by any member of the public detrimental to the sanitary condition of the council area or any part thereof;
- (i) to provide, erect and maintain a public water supply, and impose water rates;

- (j) to establish, maintain and control public wells, springs, bathing places, wash houses and swimming pools;
- (k) to regulate or prohibit the sinking of wells and provide for the closing of wells;
- (l) to prevent the pollution of any water, and to prevent access to any polluted source of water;
- (m) to regulate the production or preparation for sale and sale of foodstuffs, and to provide for the inspection of such foodstuffs and the places or premises used for their production, preparation or sale;
- (n) to establish, maintain and control cemeteries or burial grounds;
- (o) to provide for the cleaning and clearing of any public place.

9. Public Order, Peace and Safety -

- (a) to prohibit any act or conduct which is likely to cause a riot or any disturbance or any breach of the peace;
- (b) to prohibit, regulate or restrict the carrying or possession of weapons;
- (c) to prevent, abate and control fires;
- (d) to prohibit, control and restrict the storage of inflammable or offensive materials in any specified area;
- (e) to regulate the services of guides, porters and carriers;
- (f) to prevent and remove public nuisances;
- (g) to control the movement of beggars and vagrants in public places;
- (h) to regulate and control public collections in public places;
- (i) to prohibit, restrict, control or licence hawking;
- (j) to control the movement of children and other young persons in public places during the hours of darkness.

10. Communications and Public Utilities -

- (a) to make, alter, divert and maintain roads, streets, parking areas, paths, culverts, causeways, bridges, drains and watercourses;
- (b) to provide or arrange for lighting in public places and to provide, construct and maintain an electricity supply;
- (c) to make, alter and maintain wharves and jetties;
- (d) to make, alter and maintain aerodromes;
- (e) to provide postal and wireless telegraphic services;
- (f) to erect and maintain navigational aids;
- (g) to establish, acquire and maintain transport services by land or water;
- (h) to prohibit, restrict or control the access of motor traffic to any road or parking area maintained by the council and to impose speed limits in respect of any road maintained by the council;
- (i) to licence bicycles;
- (j) to regulate or prohibit the planting, cutting or destruction of any trees or vegetation growing along any street, road, path or in any public place;

- (k) to provide that the owner or occupier, or several such persons jointly, of any land or tenements, maintain, clear and keep free from vegetation and rubbish such land or tenements or the road, streets, paths or public places adjoining such land or tenements;
- (l) to prevent damage or obstruction to any roads, streets, paths, or open spaces maintained by the council.

11. Trade and Industry -

- (a) to establish, maintain and control collection centres, storage depots and processing services for agricultural produce;
- (b) to provide for the control, regulation, inspection, supervision and licensing of all places of entertainment and recreation, lodging and eating-houses, and any premises in which any profession, trade or business is carried on;
- (c) to provide for the control, regulation, supervision and licensing of any other occupation;
- (d) to prescribe the conditions under which any offensive trade or industry may be carried on.

12. Miscellaneous -

- (a) to establish, maintain and provide information and publicity services;
- (b) to require the marriage, birth or death of any person within the area of authority of the council to be reported to or registered with the council and to appoint registration officers and registers for such purposes;
- (c) to promote and regulate the development of an arts and crafts industry;
- (d) to protect, preserve, prohibit or control the removal from any place of any antique artifact;
- (e) to establish, control and manage recreation grounds, open spaces and parks;
- (f) to provide for or grant sums of money towards the maintenance and welfare of children, young persons, the aged, destitute or infirm;
- (g) to enter any contract with any other council or with any other body or person to secure or further the carrying on of any work or undertaking which the council is authorised to carry on;
- (h) to fix tariffs or charges for services rendered in connection with the achievement of any of the council's purposes;
- (i) to perform any other function, whether similar to those enumerated in this Schedule or not, which may be specifically conferred upon the council by the Minister.

Dated this 2 day of November 1993

B Boanereke
Minister for Home Affairs
and Rural Development

Published by exhibition at the Public Office of the Beretitenti this 8th day of November 1993.

I Redfern
for Secretary to the Cabinet

SUPPLEMENT No. 5

LN No. 9

SUPPLEMENT NO. 5

LOCAL GOVERNMENT ACT 1984 (Section 47(1)(a))

The Enforcement of Functions (Betio Town Council) Order 1992

In exercise of the powers conferred upon me by section 47(1)(a) of the Local Government Act 1984 ("the Act") I, acting in accordance with the advice of the Cabinet hereby make the following Order -

Citation

1. This Order may be cited as the Enforcement of Functions (Betio Town Council) Order 1992.

Betio Town Council declared to have failed to perform its functions

2. It is hereby declared under this Order that the Betio Town Council ("the Council") has made default in the performance of its functions under the Act.

Directions to Council

3. The Council is hereby directed -

- (i) to significantly reduce its outstanding debts and liabilities by 31st July 1992 which currently stand as \$133,895.96;
- (ii) to maintain proper and strict control of its expenditure in accordance with the provisions of the estimates of revenue and expenditure as set out in its approved 1992 Budget;
- (iii) to recover in full the total amount of advances paid and charged to the

individual accounts of the President, Vice-President and members of the Council;

- (iv) to recover in full the total amount of unappropriated redundancy payments made in 1990 and 1991 totalling \$4,200 by 31st July 1992;
- (v) to enforce collection and payment of its revenues both current and in arrears by 31st July 1992; and
- (vi) to perform its functions and carry out its duties and responsibilities in accordance with the provisions of the Local Government Act 1984 and any other applicable laws and regulations.

Review

4. Compliance by the Council with the requirements of the Directions set out in the preceding Order shall be reviewed by the Minister acting in accordance with the advice of the Cabinet, on or not later than 31st July 1992.

Failure of Council to comply

5. Where following a review made under the preceding Order the Council is found to have failed to comply with any of the requirements of Order 3 the Council shall be liable to have its functions transferred either to a person or body pursuant to section 47(1)(b) of the Act or liable to be dissolved or suspended pursuant to section 47(3) of the Act as the case may be.

MADE at Bairiki, Tarawa, this 1st day of July 1992.

BINATA TETAEKA
Minister of Home Affairs and
Rural Development

Published by exhibition at the Public Office of the Beretitenti this 2nd day of July, 1992.

T.I. IETAARE
for Secretary to the Cabinet

1
REPUBLIC OF KIRIBATI
(No. 6 of 2006)

I assent,

Aurite Te

Beretitenti

26 January, 2006

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT 1984

Commencement:

26 January, 2006

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

Short title and commencement

1. This Act may be cited as the Local Government (Amendment) Act 2006, and shall come into force on such date as the Minister may, by notice published in the Gazette, appoint.

Amendment of section 2

2. Section 2 of the Local Government Act 1984, as amended (hereinafter referred to as the principal Act) is amended as follows -

(a) in subsection (1) -

(i) by repealing the definition of "executive officer";

(ii) in the definition of "nominated member" by inserting at the end the words "by an association recognised by the Council.";

(iii) by repealing the definition of "person resident" and substituting the following new definition -

"person resident" means, in relation to the area of authority of any council, a person residing for the time being in such area;

(iv) by inserting a new definition as follows -

"waters adjacent" means, notwithstanding the provisions of the Fisheries Ordinance and the Maritime Zones Declaration Act, the lagoon and/or parts of the sea having as its inner limits the low-water line, as defined under the Marine Zones Declaration Act, and extending 3 nautical miles seaward, but where two or more councils have their adjacent waters over-lapping, an

agreement shall be reached to determine the extent of their adjacent waters, failing that the Minister shall so determine;"

(b) in subsection (2) by -

- (i) in paragraph (a) by inserting the word "or" after the semicolon;
- (ii) repealing paragraph (b); and
- (iii) renumbering paragraph "(c)" as paragraph "(b)".

Amendment of section 6

3. Section 6 of the principal Act is amended by inserting the words "authority of" immediately after the words "area of".

Amendment of section 9

4. Section 9 of the principal Act is amended -

(a) by repealing subsection (1) and substituting the following -

"9.(1) Subject to subsections (2) and (3), a person shall be qualified for election as a member of a council if -

- (a) he has been registered as an elector; and
- (b) he has attained 21 years of age."

(b) in subsection (2), by -

- (i) repealing paragraphs (b) and (c);
- (ii) in paragraph (d), by repealing the figure "5" and substituting the figure "2";
- (iii) renumbering paragraphs (d) and (e) as paragraphs (b) and (c); and
- (iv) by inserting the following paragraphs after paragraph (c) -

"(d) has been previously convicted and sentenced to a period of or not exceeding 12 months imprisonment;

(e) is in lawful detention by reason of having been certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Kiribati; and"

(c) by repealing subsection (3); and

(d) by renumbering subsection (4) as subsection (3).

Amendment of section 10

5. Section 10 of the principal Act is amended -
- (a) in subsection (1), by inserting a full stop after the word "election" and repealing the words thereafter;
 - (b) by repealing subsection (2); and
 - (c) by renumbering subsection (3) as subsection (2).

Amendment of section 12

6. Section 12 of the principal Act is amended in subsection (2) by inserting a new paragraph (c) as follows -

"(c) if he fails to attend 2 consecutive meetings without permission of the council."

Amendment of section 13

7. Section 13 of the principal Act is amended by repealing the whole section.

Repeal and substitution of sections 15 and 16

8. Sections 15 and 16 of the principal Act are repealed and the following sections substituted -

"15. Tibi Kauntira

- (1) Every council shall have a Tibi Kauntira.

(2) Nomination for and election to the office of the Tibi Kauntira shall be conducted in accordance with this section.

(3) Subject to this section, the provisions of the *Elections Ordinance* and any regulations made thereunder shall apply, *mutatis mutandis*, to an election to the office of Tibi Kauntira, as if the election were an election conducted in accordance with the Ordinance and the regulations for the election of one member of a council.

(4) (a) As soon as practicable after the election of a Council, the Electoral Officer for the electoral district in which the Council is located shall call for nominations, from among the elected members, of candidates for election as Tibi Kauntira.

(b) Nominations may only be received from the candidates themselves, and the provisions of sections 12 and 13 of the *Elections Ordinance* (which deal with the nomination of candidates and the validity of nominations respectively) shall not apply to an election to the office of Tibi Kauntira.

(5) Every person who is entitled to vote in the election for the Council shall be entitled to vote in the election of the Tibi Kauntira.

- (6) A person elected to the office of Tibi Kauntira under this section shall assume office on the day upon which he is declared elected.
- (7) The Tibi Kauntira, unless he ceases to be Tibi Kauntira by virtue of subsection (8), shall continue in office until the Council is dissolved.
- (8) The Tibi Kauntira shall cease to be Tibi Kauntira:
- if he resigns his office in writing addressed to the Minister;
 - following passage of a motion of no confidence in the Tibi Kauntira under section 16A; or
 - if he ceases to be an elected member of the Council.
- (9) Subject to subsection (10), where the office of Tibi Kauntira falls vacant a new Tibi Kauntira shall be elected in the manner provided for under subsections (2), (3), (4), (5) and (6).
- (10) Notwithstanding section 16(2)(d), where the office of Tibi Kauntira falls vacant during the period of six months before the day on which the Council will stand dissolved under section 17A, the Minister may, after consultation with the remaining members of the Council, direct that the Kauoman-n-Tibi Kauntira shall assume office of Tibi Kauntira, who may in turn appoint a Kauoman-n-Tibi Kauntira from among the elected members until such time the Council is dissolved.
- (11) A Tibi Kauntira shall, if qualified, be eligible for re-election.

16. Kauoman-n-Tibi Kauntira

- ~~(1) Every Council shall have a Kauoman-n-Tibi Kauntira, who shall be appointed by the Tibi Kauntira from among the elected members of the Council.~~
- (2) The Kauoman-n-Tibi Kauntira shall cease to be Kauoman-n-Tibi Kauntira:
- if he resigns his office, by notice in writing addressed to the Tibi Kauntira;
 - if he ceases to be an elected member of the Council;
 - if he is removed from office by the Tibi Kauntira; or
 - when the Tibi Kauntira who appointed him ceases to hold office."

New section 16A

9. After section 16 of the principal Act the following is inserted:

"16A. Motions of no confidence

(1) Subject to this section, where a motion of no confidence in the Tibi Kauntira is supported by the votes of not less than two-thirds of all the elected members of the Council the Tibi Kauntira shall cease to be Tibi Kauntira.

(2) A motion of no confidence in the Tibi Kauntira shall not be moved:

- (a) during the period of eighteen months commencing on the day on which the Tibi Kauntira assumed office;
- (b) during the period of one year before the day on which the Council will stand dissolved under section 17A(1); or
- (c) during the period of six months immediately following the rejection by the Council of a prior motion of no confidence in the Tibi Kauntira.

(3) A motion of no confidence may only be moved by an elected member.

(4) A motion of no confidence shall not be considered unless at least seven days' notice of the motion has been served on all elected members and both the Tibi Kauntira and the Kauoman-n-Tibi Kauntira are present when such motion is moved and considered.

Insertion of section 17A

11. A new section 17A is inserted as follows -

"Expiration of term of Council

17A:(1) At the expiration of 4 years after the election, the council shall stand dissolved and fresh elections shall be conducted in accordance with the *Elections Ordinance*.

(2) When the council stands dissolved, the Clerk may exercise the powers of the Council except the power to make byelaws, approve annual estimates, levy a rate, or borrowing or lending money."

Amendment of section 19

12. Section 19 of the principal Act is amended in the proviso clause by the repealing the words "twice in any 1 year" and substituting the words "once in every quarter of a year".

Amendment of section 20

13. Section 20 of the principal Act is amended -

(a) in subsection (1) by -

- (i) repealing the words "one-third" and substituting the words "two thirds"; and
- (ii) inserting the word "elected" between the words "the" and "members" and by inserting at the end the following "in consultation with the special member";

(b) in subsection (2) by repealing the subsection and substituting the following -

“(2) Subject to section 16A, the Tihi Kaunfira or in his absence the Kauoman-n-Tihi Kaunfira must call a meeting within seven days of the date of the requisition under subsection (1), or if both of them are absent by any one of those elected members or a special member presenting the requisition.”

(c) in subsection (3) paragraph (a) by inserting the word “elected” between the words “by” and “members” in the second line.

Amendment of section 22

14. Section 22 of the principal Act is amended by repealing the words “whole number of the” and substituting the word “elected”.

Amendment of section 24

15. Section 24 of the principal Act is amended in -

(a) subsection (1) by inserting the word “elected” between the words “the” and “members”; and

(b) subsection (3) by inserting the word “elected” between the words “the” and “members”.

Amendment of section 29

16. Section 29 of the principal Act is amended as follows -

(a) in subsection (1) by repealing the words “the term of office of the Tihi Kaunfira”; and

(b) in subsection (2) -

(i) by inserting the words “and Te Kauoman Tihi Kaunfira” between the words “Tihi Kaunfira” and “of”; and

(ii) repealing the word “him” and substituting the word “them”.

Amendment of section 33

17. Section 33 of the principal Act is amended by inserting a new subsection (3) as follows -

“(3) A committee appointed under this section shall comprise five members, three of whom shall be elected members.”

Amendment of section 35

18. Section 35 of the principal Act is amended by inserting “as soon as practicable” at the end of the said section.

Amendment of section 37

19. Section 37 of the principal Act is amended by -
- (a) inserting the words "make byelaws preventing" between the words "to" and "the"; and
 - (b) repealing the word "prevent".

Amendment of section 43

20. Section 43 of the principal Act is amended in subsection (2) as follows -
- (a) by inserting the words "Subject to section 55," immediately at the beginning of the subsection; and
 - (b) by inserting the words "to a reasonable standard or habitable condition" between the words "maintain" and "quarters".

Amendment of section 44

21. Section 44 of the principal Act is amended -
- (a) in subsection (2) by inserting the words "responsible for land matters" between the words "Minister" and "may";
 - (b) in subsection (4) by inserting the words "responsible for land matters" between the words "Minister" and "shall";
 - (c) in subsection (5) by inserting the words "responsible for land matters" between the words "Minister" and "may"; and

- (d) by inserting a new subsection (6) as follows -

"(6) In exercising his powers under this Act, the Minister, responsible for land matters, is required to consider other suitable locations.

Amendment of section 48

22. Section 48 of the principal Act is amended by repealing the word "council" appearing between the words "the" and "in" and substituting the word "Republic".

Amendment of section 49

23. Section 49 of the principal Act is amended by -
- (a) renumbering the present section 49 as subsection (1);
 - (b) inserting at the end of the said subsection (1) the words "in accordance with an action plan of the Council dealing with disasters and emergencies."; and
 - (c) inserting a new subsection (2) as follows -

"(2). In any such event, the Tiibi Kauntira shall immediately report the circumstances to the Minister and to the council concerned and the Minister shall submit the report of the Tiibi Kauntira to the Minister responsible for disaster management for funding."

Amendment of section 50

24. Section 50 of the principal Act is amended -

(a) in subsection (1) by repealing -

(i) the figure "\$100" and substituting "\$10,000";

(ii) the words "6 weeks" and substituting the words "2 years";

(iii) the figure "\$2" and substituting "\$2,000"; and

(b) in subsection (5), by repealing the word "a" appearing between the words "empower" and "specified" and substituting the word "that";

Amendment of section 51

25. Section 51 of the principal Act is amended -

(a) by repealing subsection (3) and substituting the following -

"(3) When proposing a bye-law or amendment of a bye-law as the case may be, the Council shall cause such bye-law or amendment to be publicised widely, debated and discussed at public meetings of persons resident within the area of authority of the council"

(b) subsection (4) by inserting the words "giving reasons for such refusal" between the words "approve" and "any"; and

(c) subsection (5) by repealing the words "at any time" appearing between the words "may," and "after" and substituting the words "in the public interest".

Amendment of section 52

26. Section 52 of the principal Act is amended in subsection (2) by repealing the words "in the vernacular" appearing between the words "thereof" and "approved".

Amendment of section 55

27. Section 55 of the principal Act is amended -

(a) by repealing paragraphs (a) and (b);

(b) by renumbering sub-paragraphs "(i) - (xiv)" as paragraphs "(a) - (n)" respectively;

(c) in the new paragraph (c), by inserting at the end the words "and Acts";

- (d) by repealing the new paragraphs (l), (m) and (n) and substituting the following new paragraph -

"(l) all monies derived from hiring of plants and vehicles owned by the Council."

Amendment of section 63

28. Section 63 of the principal Act is amended by repealing the whole section and substituting the following -

"63. The Minister, acting in accordance with the advice of Cabinet shall issue written instructions, to be called Financial Instructions, not inconsistent with this Act, for -

- (a) regulating and for controlling the making of receipts and payments of council;
- (b) regulating and controlling operation of the bank accounts of Councils;
- (c) providing for abandonment of claims and write offs;
- (d) regulating the tendering of services required by the Council;
- (e) regulating the purchase and safekeeping of stores and supplies, and
- (f) the better control and management of the financial business of councils,

and such instructions may be issued either generally or with respect to the councils in any particular area and shall be observed and obeyed by the council or councils with respect to which such instructions have been issued."

Amendment of section 68

29. Section 68 of the principal Act is amended -

- (a) by repealing the words "Director of Audit" and substituting the words "Auditor General"; and
- (b) by inserting at the end the following "and for submission to the Maneaba ni Mambigataba for information."

Amendment of section 69

30. Section 69 of the principal Act is amended -

- (a) by repealing the words "Director of Audit" wherever they occur and substituting the words "Auditor General";
- (b) in subsection (1) paragraph (a), by inserting the words "unlawful or" between the words "is" and "contrary"; and

- (c) by repealing the proviso clause at the end of subsection (1).

Amendment of section 70

31. Section 70 of the principal Act is amended by repealing -
- (a) the word "servants" appearing in the title heading and substituting the word "employees"; and
 - (b) the word "servant" appearing between the words "or" and "of" in the first and second lines and substituting the word "employee"; and
 - (c) by repealing the words "Director of Audit" and substituting the words "Auditor General";

Amendment of section 71

32. Section 71 of the principal Act is amended -
- (a) by repealing the words "Director of Audit" wherever they occur and substituting the words "Auditor General";
 - (b) in the proviso clause -
 - (i) by repealing the words "Provided that"; and
 - (ii) renumbering the said clause as subsection (2);
 - (c) inserting a new subsection (3) as follows -

~~(3) The costs associated with attending the audit examination and proceedings connected thereto shall be borne by the Republic.~~

- (d) in subsection (2) -
 - (i) by renumbering the said subsection as subsection (4); and
 - (ii) by repealing the figures "\$100" and "3 months" and substituting the figures "\$1000" and "6 months" respectively.

Amendment of sections 72, 73, 74 and 75

33. Sections 72, 73, 74 and 75 of the principal Act are amended by repealing the words "Director of Audit" wherever they occur and substituting the words "Auditor General".

Amendment of section 76

34. Section 76 of the principal Act is amended by repealing the figure "57" in the second line and substituting the figure "47".

Amendment of section 78

35. Section 78 of the principal Act is amended by repealing the whole section and substituting the following -

"78. If in any financial year, the Council is required to -

- (a) cover expenditure previously incurred;
- (b) meet contingencies;
- (c) defray any expenditure not yet defrayed; and
- (d) make supplementary appropriation to cover any unforeseen expenditure or offset any expenditure already incurred without provision,

the Council shall by formal resolution make and levy one or more of the rates specified in section 77(1) as will be sufficient to provide for such purposes."

Amendment of section 80

36. Section 80 of the principal Act is amended -

- (a) in subsection 2(a), by repealing the words "18 years" and substituting the words "21 years";
- (b) in subsection 2(b), by repealing the figure "\$2" and substituting the words "half the amount of the basic rate."; and

(c) in subsection 3(a), -

- (i) by inserting a "full stop" after the word "resident" in the fifth line; and
- (ii) repealing all the words thereafter.

(d) by repealing subsection (3)(b) and substituting the following -

"(3)(b) Any person temporarily resident in the area of authority of a council shall be liable to pay the basic rate unless a receipt of payment is presented as proof of payment to the council in the area of authority of which such person is a resident."

(d) by repealing subsection (4).

Amendment of section 82

37. Section 82 of the principal Act is amended -

(a) in subsection (2), by inserting a new paragraph (e) as follows -

"(e) lands and buildings belonging to the council and the Republic."; and

- (b) in subsection (3) by repealing the word "poverty" and substituting the word "hardship";
- (c) in subsection (3) by adding after the full stop the following -

"In this section, "hardship" means the inability to pay basic rate due to a physical and mental disability, old age, single mother or such other reason as the Council may deem just."

Amendment of section 85

38. Section 85 of the principal Act is amended -

- (a) (i) in subsection (1) by repealing the words "the proof of which shall lie on the person charged"; and
- (ii) by repealing "\$100 and" and substituting "not exceeding \$1000 or";
- (b) in subsection (2) by repealing "of \$100 and" and substituting "not exceeding \$1000 or".

Amendment of section 86

39. Section 86 of the principal Act is amended by repealing -

- (a) the words "the proof of which shall lie on the person charged"; and
- (b) the figure "\$200" and substituting the figure "not exceeding \$2000".

Amendment of section 87

40. Section 87 of the principal Act is amended by repealing the words "\$200" and "6 months" and substituting the words "not exceeding \$2000" and "1 year" respectively.

Amendment of section 88

41. Section 88 of the principal Act is amended -

- (a) in subsection (2) by repealing the words "\$100 and to imprisonment for 6 months" and substituting the words "\$1000 or, in default of payment, to imprisonment for 6 months"; and
- (b) in subsection (3) by repealing the figure "\$100" and substituting the figure "\$1000".

Amendment of section 89

42. Section 89 of the principal Act is amended in subsection (2)(a) by inserting the words "or possessions" between the words "property," and "as".

Amendment of section 90

43. Section 90 of the principal Act is amended by repealing "\$200 and" and substituting "not exceeding \$2000 or".

Amendment of section 93

44. Section 93 of the principal Act is amended by inserting the words "or former or retired suitably qualified public servants" between the words "employees" and "one" in the second line.

Amendment of section 96

45. Section 96 of the principal Act is amended by inserting at the end of the proviso clause the words "with special skills or qualification for a particular work or job."

Amendment of section 97

46. Section 97 of the principal Act is amended by repealing the words "and with the consent of the officer concerned".

Amendment of section 99

47. Section 99 of the principal Act is amended -

- (a) in subsection (1) by repealing the words "within 3 months" and substituting the words "within a reasonable time"; and
- (b) in subsection (4) by repealing "\$100" and substituting "not exceeding \$1000".

Amendment of section 101

48. Section 101 of the principal Act is amended in paragraph (c) by repealing the words "gratuities granted" and substituting the words "provident fund contribution".

Amendment of section 102

49. Section 102 of the principal Act is amended by repealing the words "Subject to section 103, section 104 and section 105 of the Constitution, for the avoidance of any doubt,".

Amendment of section 103

50. Section 103 of the principal Act is amended -

- (a) in the title heading by repealing the words "pensions, gratuity or other allowances"; and
- (b) by repealing the words "pensions, gratuity or other" in the first line and substituting the words "provident fund"; and

- (c) deleting the "colon" after the word "whatsoever" at the end and substituting a "comma"; and
- (d) inserting the words "except as provided under the Provident Fund Ordinance." at the end of the first paragraph before the proviso.

Amendment of section 104

51. Section 104 of the principal Act is amended by repealing the whole section and substituting the following -

"104. Any matter, thing, done or contract entered by a council through -

- (a) an officer or employee of a council, or
- (b) other person acting under the direction of a council,

was done bona fide for the purposes of this Act shall not subject an officer or employee or other person directed by the council personally to any action, liability, claim or demand whatsoever."

Amendment of section 107

52. Section 107 of the principal Act is amended by repealing the whole section and substituting the following -

"107. In any prosecution by or on behalf of a council and in any civil cause or matter in which a council is a party, the council may be represented by any member, officer, employee, or other legal representative duly authorised in that behalf by the council."

Amendment of section 112

53. Section 112 of the principal Act is amended by -

- (a) repealing the word "servant" in the first line and substituting the word "employee";
- (b) inserting the words "councils area of authority" appearing in the fourth line between the words "the" and "area"; and
- (c) repealing the words "area in which such council is established" appearing in line 4.

Amendment of section 114

54. Section 114 of the principal Act is amended in -

- (a) subsection (1)(c) by repealing the words "public body" and substituting the words "government owned company";
- (b) subsection (4) by repealing -
 - (i) the words "unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal";

- (ii) "\$20" and substituting "not exceeding \$1000"; and
- (iii) "6 weeks" and substituting "6 months".

Amendment of section 116

55. Section 116 of the principal Act is amended in -

- (a) subsection (1) by repealing -
 - (i) "\$20" and substituting "not exceeding \$1000";
 - (ii) "6 weeks" and substituting "6 months"; and
 - (iii) "\$2" and substituting "\$5";
- (b) subsection (2), by inserting the words "and assets" between the words "fund" and "of".

Amendment of section 117

56. Section 117 of the principal Act is amended by -

- (a) inserting the words "under this Act" between the words "officer" and "which"; and
- (b) repealing the word "servant" appearing in the fourth line and substituting the word "employee".

Amendment of section 118

57. Section 118 of the principal Act is amended in subsection (3) by repealing the words "Minister whose decision is final" and substituting the words "magistrates' court".

Amendment of section 119

58. Section 119 of the principal Act is amended in -

- (a) paragraph (a) by repealing the word "servant" and substituting the word "employee"; and
- (b) the last paragraph by repealing -
 - (i) "\$50 and" and substituting "not exceeding \$1000 or"; and
 - (ii) "3 months" and substituting "6 months".

Amendment of section 120

59. Section 120 of the principal Act is amended by repealing "\$2" and substituting "not exceeding \$100".

Amendment of section 122

60. Section 122(1) of the principal Act is amended in subsection by repealing the following -

- (a) "\$20" and substituting "not exceeding \$1000";
- (b) "6 weeks" and substituting "6 months"; and
- (c) "\$2" and substituting "\$5".

Amendment of section 123

61. Section 123 of the principal Act is amended by inserting the words "or councils" between the words "council" and "for" in the third line.

Inserting new section 126

62. A new section 126 is inserted as follows -

"Jurisdiction of Magistrates Court

126. The Magistrates Court shall have jurisdiction to try offences under this Act."

63. Transitional provisions

(1) Within three months of the entry of this Act, steps shall be taken under this section to dissolve all Councils in Kiribati, so as to standardize the terms of office of the elected members of such Councils.

(2) ~~Notwithstanding the provisions of section 10 of the principal Act as it was in force immediately prior to the entry into force of this Act, the Minister, acting in accordance with advice of the Cabinet, shall, by notice published in the *Gazette*, appoint a date on which the Council or councils specified in the notice shall stand dissolved.~~

(3) A notice under subsection (2) shall have effect as if the date specified in the notice was the fourth anniversary of the election of the Council.

THE LOCAL GOVERNMENT (AMENDMENT) ACT 2006

EXPLANATORY MEMORANDUM

When the Local Government Act was passed in 1984, it was to amend substantially the Ordinance then existing by way of repealing it and substituting the new Act. Twenty years has since passed and although there have been several amendments to the existing Act, they are not as substantial as that contained in this Bill. The amendments came about from the review preceding the drafting of this Bill and after holding consultative meetings with officials of island councils.

Section 2 deals with the interpretation of words and phrases, by deleting some and defining and redefining some.

Section 4 amends section 9 by adding a qualification for election to a council to the one already existing which is that a person has to attain 21 years of age. The amendment also deletes certain qualification criteria, and replacing them as new paragraphs (d) and (e) referring to criminal conviction and mental incapacity respectively.

Section 5 amends section 10 to put the term of office of elected members strictly to 4 years, cancelling the rotational membership.

Section 6 amends section 12 by inserting an additional ground for a nominated member's seat to fall vacant, that is, if he/she fails to attend 2 consecutive meetings without the permission of the Council.

Section 8 amends section 15 by adopting the national model approach for electing the Tiibi Kauntira. The Tiibi Kauntira or his Kauoman can be removed by two-thirds of the elected members.

Section 9 inserts a new section 16A dealing with a No Confidence Motion, to be moved after the Tiibi has been in office for 18 months and the motion be moved and voted upon by the elected members only.

Section 11 inserts a new clause 17A dealing with the expiration of term of the council and empowering the Clerk to exercise a limited power of the Council in the interim.

Section 13 amends section 20 dealing with convening of meetings of the council to be restricted to elected members only.

Section 15 amends section 24 restricting the voting on acts and matters of the Council to elected members only. Although the Council is comprised of various members – elected, ex-officio, special and nominated, only elected members can vote on matters or acts to be done by the Council.

Section 17 amends section 33 to put a limit on the membership of the Area Committee to 5, 3 of whom shall be council members.

Section 23 amends section 49 by inserting a new subsection making it clear that the Tiibi Kauntira shall act in time of emergencies in accordance with the action plan of the Council.

The Council is expected to develop its own action plan, and the report of the emergency shall be made to the Minister and to the Minister responsible for disaster management.

Section 24 amends section 50 dealing with bye laws. The penalty is increased to a fine not exceeding \$10,000, and a penalty is increased to a fine not exceeding \$2,000 per day. This should not cause alarm. The Council is now given a discretion to insert under its byelaws penalties that range from 0 to \$10,000. The same concept applies to penalties.

Section 28 amends section 63 to make it more readable and to extend the scope of the contents of the Financial Instructions.

At section 36, a new subsection 3(b) is proposed to be inserted in section 80 to compel any person temporarily residing in a council's area of authority to pay basic rates unless he or she can prove that he has already paid such basic rates to another council.

Section 37 amends section 82 by exempting at subsection (2) lands and buildings belonging to the council and the Republic from assessment and rating under the Act. The word "poverty" is replaced by "hardship" in subsection (3).

Section 44 amends section 93 to include retired experienced public servants or those with relevant local government administrative experience to be appointed as Clerks to island councils.

Section 51 reconstructs the present section 104 to protect an officer or employee of the council or any other person acting under the direction of the council from matters done bona fide.

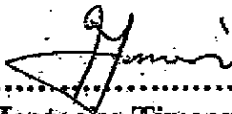
Section 57 amends section 118 dealing with determination of age by the rate collector and replaces the Minister with the magistrates court as a forum for determination of grievances from those aggrieved by a determination of a rate collector.

Section 62 empowers the magistrates court to try offences under this Act.

Titabu Tabane
Attorney-General
7 November 2005

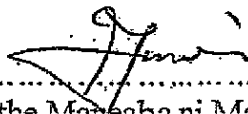
**CERTIFICATE OF THE CLERK OF THE MANEABA NI
MAUNGATABU**

This printed impression of the Local Government (Amendment) Act 2006 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 21st November 2006 and is found by me to be a true and correctly printed copy of the said Bill.

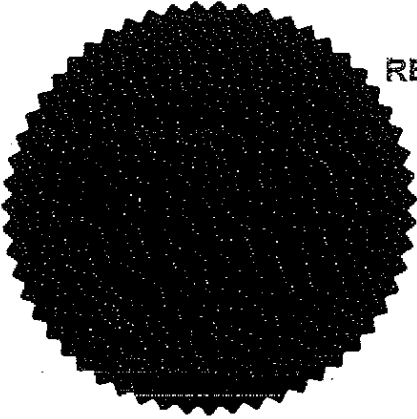


.....
Ioataake Timeon
Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this 26th day
of January..... 2006.



.....
Clerk of the Maneaba ni Maungatabu



REPUBLIC OF KIRIBATI
(No. 19 of 2008)

I assent,

Anito Tang

Beretitehti

23 December, 2008

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT 1984

Commencement:
2008

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

1. Short title

This Act may be cited as the *Local Government (Amendment) Act 2008*.

2. Commencement

This Act shall be deemed to have entered into force on 1 January 2008.

3. Meaning of 'principal Act'

In this Act 'the principal Act' means the *Local Government Act 1984*.

4. Amendment of section 2

Section 2 of the principal Act is amended—

- (a) by inserting after the definition of 'elected member' the following definition—

"Mayor" shall include the Deputy Mayor and in sections 24, 25 and 31 shall include any other person presiding at any meeting of a council."; and

- (b) by repealing the definition of 'Tibi Kauntira' (inserted by section 2 of the *Local Government (Amendment) Act 1994*).

5. Repeal and substitution of section 17

Section 17 of the principal Act is repealed and the following section substituted—

“17. Term of office

- (1) The term of office of the Mayor shall be in accordance with subsections (7) and (8) of section 15.
- (2) The term of office of the Deputy Mayor shall be in accordance with section 15(10) and section 16.”.

6. Change of title of Tibi Kauntira and Kauoman—n—Tibi Kauntira

The principal Act is amended by—

- (a) repealing the words “Tibi Kauntira” wherever they appear and substituting the word “Mayor”; and
- (b) repealing the words “Kauoman—n—Tibi Kauntira” wherever they appear and substituting the words “Deputy Mayor”.

LOCAL GOVERNMENT (AMENDMENT) ACT 2008

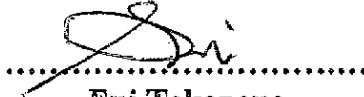
EXPLANATORY MEMORANDUM

This short Act amends the titles of the offices of Tibi Kauntira and Kauoman—n—Tibi Kauntira to Mayor and Deputy Mayor respectively. The Act also substitutes a new section 17, to rectify an oversight from the amendments made in 2006. The effect of the amendment is to link the terms for the Mayor and Deputy Mayor to sections 15 and 16 of the principal Act. The term of office is therefore a maximum of four years after election, or a shorter period if they resign their offices, or if a motion of no confidence in the Mayor is successful.

Titabu Tabane
Attorney General
6 November 2008

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

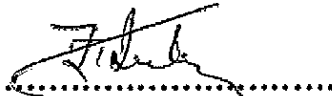
This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 22nd December 2008 and is found by me to be a true and correctly printed copy of the said Bill.



Eni Tekanene
Clerk of the Maneaba ni Maungatabu

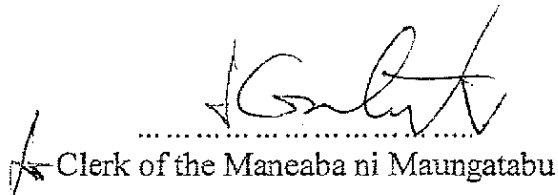
**CERTIFICATE OF THE SPEAKER OF THE MANEABA NI
MAUNGATABU**

I certify that the above Bill, was on 22nd December 2008 passed by the Maneaba ni Maungatabu upon a Certificate of Urgency under section 68(3)(a) of the Constitution.



Hon. Taomati Iuta
Speaker of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this 23rd day of December 2008.



Clerk of the Maneaba ni Maungatabu