

**LAWS OF KIRIBATI
REVISED EDITION 1980**

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3 of 1968
7 of 1968
2 of 1969
3 of 1969
9 of 1969
L.N. 15/71
8 of 1971
9 of 1971
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13 of 1972
(Cap. 1 of
1973)
L.N. 16/74
9 of 1974
14 of 1974
L.N. 50/75
26 of 1977
L.N. 6/80

An Ordinance to consolidate and amend the law relating to the construction, application and interpretation of laws, to make general provisions with regard thereto, to define terms and expressions used in laws and public documents, to make general provision for other like purposes and for matters incidental thereto or connected therewith

Commencement: Section 62—10 August 1968

Remainder—12 December 1968

PART I

SHORT TITLE AND APPLICATION

Short title

1. This Ordinance may be cited as the Interpretation and General Clauses Ordinance.

Application

2. (1) Save where the contrary intention appears either from this Ordinance or from the context of any other Ordinance or instrument, the provisions of this Ordinance shall apply to this Ordinance and to any other Ordinance in force, whether such other Ordinance came or comes into operation before or after the commencement of this Ordinance, and to any instrument made or issued under or by virtue of any such Ordinance.

(2) This Ordinance shall be binding on the Republic.

PART II

INTERPRETATION OF WORDS AND EXPRESSIONS

3. (1) In any Ordinance—

Interpretation of terms

"act" when used with reference to an offence or civil wrong, includes a series of acts, an illegal omission and a series of illegal omissions;

"Act" means, subject to subsection (2), a Bill passed by the Maneaba ni Maungatabu and assented to by the Beretitenti in accordance with section 66 of the Constitution, and includes any subordinate legislation made under any such Act;

"alien" means a person who is not a citizen of Kiribati;

"amend" includes repeal, revoke, rescind, cancel, replace, add to or vary, and the doing of any 2 or more of such things simultaneously or in the same Ordinance, Act or instrument;

"Appropriation Act" means an Act to provide for the issue from the Consolidated Fund of the sums necessary for the service of a financial year (being the Act referred to in section 109 (2) of the Constitution), and includes a Supplementary Appropriation Act;

"the Attorney-General" means the Attorney-General for Kiribati whose office is provided for by section 42 of the Constitution;

"Banaban" means—

(a) one of the former indigenous inhabitants of Banaba; or

(b) any other person—

(i) one of whose ancestors was born in Kiribati before the year 1900; and

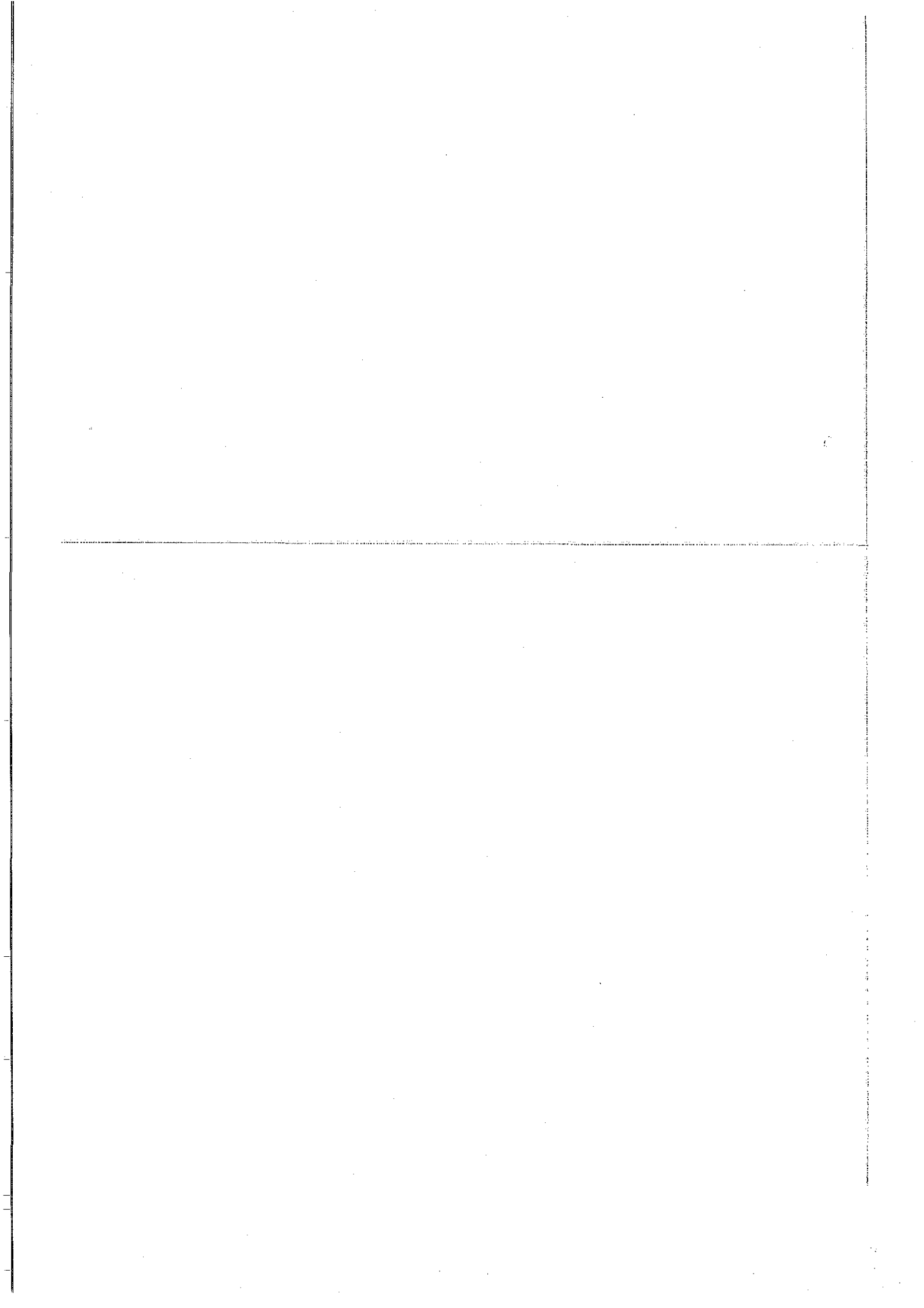
(ii) who is accepted as a member of the Banaban community in accordance with custom;

"the Banaba Island Council" means the Banaba Island Council provided for by section 121 of the Constitution;

"the Beretitenti" means the president of Kiribati, whose office is provided for by section 30 of the Constitution, and includes—

(a) the Council of State performing the office of Beretitenti under section 35 (1) or 49 (2) of the Constitution; and

(b) the Kauoman-ni-Beretitenti assuming the office or discharging functions of the Beretitenti under section 35 (2) or 36 (1) or (2) of the Constitution; or



(c) a Minister elected under section 35 (5) of the Constitution to assume the office of Berefitenti;

"Bill" means a Bill within the meaning of section 66 of the Constitution;

"British possession" means any part of Her Majesty's dominions (other than the United Kingdom), and shall be deemed to include any territory under Her Majesty's protection and any territory administered by the Government of any part of Her Majesty's dominions under the trusteeship system of the United Nations;

"British subject" means a person who is, or who has the status of, a British subject, Commonwealth citizen or British protected person under the laws of England relating to nationality and citizenship;

"the Cabinet" means the Cabinet established by section 40 of the Constitution;

~~"the Chief Electoral Commissioner" means the Chief Electoral Commissioner appointed under section 62 of the Constitution;~~

"the Chief Justice" means the Chief Justice of the High Court appointed under section 81 (1) of the Constitution;

"Christian name" means any name prefixed or suffixed to a surname, whether received in Christian baptism or otherwise;

"citizen of Kiribati" means a person who is a citizen of Kiribati by virtue of Chapter III of the Constitution, including a person who is a citizen of Kiribati by virtue of provisions made under section 28 (a) of the Constitution;

"commencement" when used with reference to any Ordinance, means the date on which the Ordinance came or comes into operation;

"common law" means so much of the common law, including the doctrines of equity, of England as has effect for the time being in Kiribati;

"the Commonwealth" means Kiribati and any country to which section 27 of the Constitution applies, and includes the dependencies of any such country;

"Commonwealth citizen" means a person who has the status of a Commonwealth citizen by virtue of section 27 of the Constitution;

"Commissioner of the High Court" means a person appointed under section 84 of the Constitution to perform functions of a judge of the High Court;

- "the Commissioner of Police" means the Commissioner of Police appointed under section 100 (3) of the Constitution;
- "the Consolidated Fund" means the Consolidated Fund established by section 107 of the Constitution;
- "the Constitution" means the Constitution of the Republic of Kiribati for the time being in force;
- "contravene" in relation to any requirement or condition prescribed in any Ordinance or in any grant, permit, lease, licence or authority granted by or under any Ordinance, includes a failure to comply with that requirement or condition;
- "the Council of State" means the Council of State established by section 49 of the Constitution;
- "court" means any court of Kiribati of competent jurisdiction;
- "the Court of Appeal" means the Court of Appeal for Kiribati established by section 90 of the Constitution;
- "daily penalty" means a penalty for each day on which the offence is continued after conviction therefor;
- "definition" means the interpretation given by an Ordinance to any word or expression;
- "the Director of Audit" means the Director of Audit appointed under section 100 (2) of the Constitution;
- "disciplined force" means—
- (a) the Police Force; or
 - (b) the Prison Service; or
 - (c) the Marine Protection Service; or
 - (d) the Marine Training School;
- "document" includes any publication and any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means;
- "the Electoral Commission" means the Electoral Commission provided for by section 62 (1) of the Constitution;
- "electoral district", in relation to the Maneaba ni Maungatabu, means an electoral district established in accordance with section 54 (2) of the Constitution;
- "enactment" means an Act or an Ordinance;
- "export" means to take out or cause to be taken out of Kiribati by air or water;
- "financial year" means the 12 months ending the 31st day of December in any year;
- "function" includes right, duty and power;

"the *Gazette*" means the *Kiribati Gazette*, published by order of the Government, and includes any supplement thereto and any special or extraordinary issue thereof;

"general election" means a general election of members of the Maneaba ni Maungatabu in accordance with section 79 (1) of the Constitution;

"the Government" means, subject to subsection (3), the Government of Kiribati;

"Government officer" has the same meaning as "officer";

"the Government Printer" means the Government Printer of Kiribati and any other printer authorised by or on behalf of the Government to print any Act or any other document of the Government;

"Her Majesty" means Her Majesty Queen Elizabeth the Second, Queen of the United Kingdom of Great Britain and Northern Ireland, and includes Her Heirs and Successors according to the laws of England;

"the High Court" means the High Court of Kiribati established by section 80 of the Constitution;

"high judicial office" means the office of a judge of a court—

- (a) having unlimited jurisdiction in civil and criminal matters; or
- (b) having jurisdiction in appeals from a court having such unlimited jurisdiction;

"immovable property" means—

- (a) land, whether covered by water or not;
- (b) any estate, right, interest or easement in or over any land; and
- (c) things attached to land or permanently fastened to any thing attached to land;

"import" means to bring or cause to be brought into Kiribati by air or water;

"Independence Day" means 12th July 1979;

"the Independence Order" means the Kiribati Independence Order 1979 of the United Kingdom, or, if that Order is altered under section 13 of that Order, means that Order as so altered;

"judge", in relation to the High Court, means—

- (a) the Chief Justice; or
- (b) a judge of the High Court appointed under section 81 (2) of the Constitution; or

(c) in relation to any functions of a judge of the High Court that a Commissioner of the High Court is appointed to perform—that Commissioner,

and includes a judge of the High Court sitting, by virtue of section 86 of the Constitution, after his appointment has terminated;

“judge”, in relation to the Court of Appeal, means a judge of the Court of Appeal holding office under section 91 of the Constitution, and includes a judge of the Court of Appeal sitting, by virtue of section 94 of the Constitution, after his appointment has terminated;

“the Kauoman-ni-Beretitenti” means the vice-president of Kiribati, whose office is established by section 39 of the Constitution, and includes a person performing the functions of the Kauoman-ni-Beretitenti under that section;

“Kiribati” means the territories that immediately before Independence Day comprised the Colony of the Gilbert Islands, and which are more particularly specified in Schedule 2 to the Constitution, and includes any territory added, in accordance with law, to that area after Independence Day;

“Kiribati waters” means the internal waters and the territorial waters of Kiribati;

“land” includes land covered by water, any estate or interest in land, all things growing on land and buildings and other things permanently fixed to land and any cellar, sewer, drain or culvert in or under land;

“law” means any law for the time being in force in, having legislative effect in, extending to, or applicable in Kiribati;

“local government council” means a local government council established under the Local Government Ordinance;

“magistrates’ court” means a magistrates’ court established under the Magistrates’ Courts Ordinance and “magistrate” means a member of a court established under that Ordinance; Cap. 52

“the Maneaba ni Maungatabu” means the legislature for Kiribati established by section 52 of the Constitution;

“the Maneaba Members’ Salaries Tribunal” means the Maneaba Members’ Salaries Tribunal provided for by section 65 (1) of the Constitution;

“master” when used with reference to a vessel, means the person (except a pilot) having for the time being command or charge of the vessel, and when used in reference to an aircraft, means the person having for the time being command or charge of the aircraft;

Cap. 55 "medical officer" means a person registered as a medical officer under the Medical and Dental Practitioners Ordinance;

Cap. 55 "medical practitioner" means a person for the time being duly registered or deemed to be registered, or licensed as a medical practitioner, or otherwise permitted to practice as a medical practitioner, under the Medical and Dental Practitioners Ordinance;

"Minister" means a member of the Cabinet;

"the Minister" means the Minister for the time being responsible for the matter in question;

"month" means calendar month;

"movable property" means property of every description except immovable property;

~~"the National Seal" means the national seal of the Republic provided for by section 128 of the Constitution;~~

Cap. 20 of 1973 "native" and "non-native" have the meanings respectively assigned to those expressions by the Native Status Ordinance;

"non-justiciable" has the meaning given to it by subsection (5);

"oath" and "affidavit" in the case of persons allowed by law to affirm, declare or promise instead of swearing, include affirmation, declaration and promise and "swear" in like case includes affirm, declare and promise;

"occupy" includes use, inhabit, be in possession of or enjoy the land or premises to which the word relates, otherwise than as a mere servant or for the mere purpose of the care, custody or charge thereof;

"offence" means any crime, felony, misdemeanour or contravention or other breach of, or failure to comply with, any written law, for which a penalty is provided;

"officer" means a person in the permanent or temporary employment of the Government;

"Ordinance" means, subject to subsection (2), an Ordinance or King's Regulation at any time in force in the area of Kiribati, and includes—

(a) any such Ordinance or Regulation as amended by an Act or an order under section 5 (3) of the Independence Order; and

(b) any subordinate legislation made under any such Ordinance or Regulation;

"person" includes any public body and any body of persons, corporate or un-incorporate, and this definition shall apply not-

withstanding that the word "person" occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation;

"police officer" and terms and expressions referring to ranks in the Kiribati Police Force shall bear the meanings respectively assigned to them by the Police Ordinance;

Cap. 73

"power" includes any privilege, authority and discretion;

"prescribed" and "provided", when used in or with reference to any Ordinance, mean prescribed or provided by that Ordinance or by subsidiary legislation made under that Ordinance;

~~"the President of the Court of Appeal" means the President of the Court of Appeal appointed under section 91 (3) of the Constitution;~~

"the Prison Service" means the service established for the purpose of the Prisons Ordinance;

Cap. 76

"property" includes—

(a) money, goods, choses in action and land; and

(b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a) of this definition;

"the Public Accounts Committee" means the Public Accounts Committee of the Maneaba ni Maungatabu provided for by section 115 of the Constitution;

"publication" means—

(a) all written and printed matter;

(b) any record, tape, wire, perforated roll, cinematograph film or other contrivance by means of which any words or ideas may be mechanically, electronically or electrically produced, reproduced, represented or conveyed;

(c) anything whether of a similar nature to the foregoing or not, containing any visible representation or by its form, shape, or in any manner capable of producing, reproducing, representing or conveying words or ideas; and

(d) every copy and reproduction of any publication as defined in paragraphs (a), (b) and (c) of this definition;

"public body" includes the Cabinet, the Maneaba ni Maungatabu, a local government council, any department of the Government and any undertaking by or of the Government;

~~“public holiday” includes any day made a general holiday by virtue of any Ordinance;~~

“public office” means any office or employment the holding or discharging of which by a person would constitute that person an officer;

“public officer” has the same meaning as “officer”;

“public place” includes every place to which the public are entitled or permitted to have access whether on payment or otherwise;

“the public service” means the service of the Republic in a civil capacity;

“the Public Service Commission” means the Public Service Commission established by section 98 of the Constitution;

“the Rabi Council” means—

(a) the Council of Leaders established by the Banaban Settlement Ordinance 1970 of Fiji; or

(b) any successor body that represents the Banaban community on Banaba and on Rabi Island in Fiji;

“registered”, when used with reference to a document, means registered under the provisions of any law applicable to the registration of such a document;

Cap. 55A

“registered medical assistant” means a person registered as a medical assistant under the Medical Assistants Ordinance;

Cap. 55

“registered medical practitioner” means a person registered as a medical practitioner under the Medical and Dental Practitioners Ordinance;

“the regulations” means the regulations made under the Act;

“repeal” includes rescind, revoke, cancel or replace;

“the Republic” means the Republic of Kiribati;

“rules of court” when used in relation to any court, means rules made by the authority having for the time being power to make rules and orders regulating the practice and procedure of such court;

~~“Secretary” means the Secretary to the Cabinet or the Secretary to a department of government appointed under section 100 (1) of the Constitution;~~

“the Secretary”, in relation to any matter, means—

(a) in a case in which the Beretitenti is responsible for the matter—the Secretary to the Cabinet; and

(b) in a case in which any other Minister is responsible for

the matter—the Secretary to the department of government concerned;

- “the Secretary to the Cabinet” means the Secretary to the Cabinet whose office is provided for by section 44 of the Constitution;
- “the Secretary of State” means one of Her Majesty’s Principal Secretaries of State for the time being;
- “sell” includes barter and exchange;
- “sign” includes, in the case of a person unable to write, the affixing or making of a seal, mark or thumbprint;
- “sitting”, in relation to the Maneaba ni Maungatabu, means a period during which it is sitting continuously without adjournment, or is in committee;
- “the Speaker” means the Speaker of the Maneaba ni Maungatabu, whose office is provided for by section 71 of the Constitution;
- “Special Fund” means a Special Fund provided for by section 107 (2) of the Constitution;
- “standard time” means standard time as provided in section 63;
- “State land” means land the property of the Republic;
- “statute of general application” means a statute in force in England that is part of the law of Kiribati by virtue of section 15 (1) (a) of the Western Pacific (Courts) Order in Council 1961 of the United Kingdom;
- “statutory declaration”, if made—
- (a) in Kiribati, means a declaration made by virtue of any Ordinance or law authorising a declaration to be made otherwise than in the course of a judicial proceeding;
 - (b) in the Commonwealth, elsewhere than in Kiribati, means a declaration made before a justice of the peace, notary public, commissioner for oaths or other person having authority therein under any law for the time being in force to take or receive a declaration;
 - (c) in any other place, means a declaration made before—
 - (i) a Kiribati consular officer or pro-consul; or
 - (ii) a person carrying out the functions of a Kiribati consular officer or pro-consul; or
 - (iii) a person having authority under any Act or Act of Parliament of the United Kingdom to take or receive a declaration;

"statutory expenditure" means expenditure charged on the Consolidated Fund by virtue of any provision of the Constitution or of any other law other than an Appropriation Act;

"street" or "road" includes any highway, street, road, bridge, square, court, alley, lane, bridleway, footway, parade, thoroughfare, passage or open space to which the public are entitled or permitted to have access whether on payment or otherwise;

"subordinate court" means any court established for Kiribati other than the High Court, the Court of Appeal or the Judicial Committee of the Privy Council;

"subordinate legislation" has the same meaning as "subsidiary legislation";

"subsidiary legislation" means any legislative provision made in exercise of any power in that behalf conferred by any Ordinance, by way of bye-law, notice, order, proclamation, regulation, rule, rule of court or other instrument;

"summary", in relation to the trial of any offence, means the trial of such offence by a magistrates' court or by the High Court in the exercise of its summary jurisdiction;

"summary conviction" means conviction by a magistrates' court or by the High Court in the exercise of its summary jurisdiction;

"Supplementary Appropriation Act" means an Act the purpose of which is the appropriation of money for the service of a financial year in supplementation of the appropriation for the year already made by an Appropriation Act (being an Act of a kind referred to in section 109 (3) and (4) of the Constitution);

Cap. 51 "town council" means a town council established under the Local Government Ordinance;

"United Kingdom" means the United Kingdom of Great Britain and Northern Ireland;

Cap. 51 "urban council" means an urban council established under the Local Government Ordinance;

"vessel" includes any ship or boat or any other description of vessel used in navigation;

"will" includes any testamentary instrument;

"words" includes figures and symbols;

"writing" and "printing" includes writing, printing, lithography, photography, typewriting and any other mode of representing words in a visible form;

"year" means a year reckoned according to the Gregorian calendar.

(2) In any Act or Ordinance (including this Ordinance), unless the context indicates otherwise—

- (a) a reference to an Act shall be deemed to include a reference to an Ordinance; and
- (b) a reference to an Ordinance shall be deemed to include a reference to an Act.

(3) In any Act—

- (a) a reference to the Republic includes, as appropriate, a reference to the Government; and
- (b) a reference to the Government includes, as appropriate, a reference to the Republic.

(4) In any Act, unless the context indicates otherwise, a reference to a law of England (other than the common law)—

- (a) shall be taken to include a reference to any subordinate legislation made under it; and
- (b) shall be read as a reference to the law as in force immediately before Independence Day.

(5) Where an Act declares a question to be non-justiciable, the question shall not be heard or determined by any court or tribunal.

4. Where any word or expression is defined in any Ordinance, such definition shall extend to the grammatical variations and cognate expressions of such word or expression.

Grammatical variations and cognate expressions

5. (1) Words and expressions importing the masculine gender include the feminine gender.

Provisions for gender and number

(2) Words and expressions in the singular include the plural and words and expressions in the plural include the singular.

6. Where any Ordinance authorises or requires any documents to be served or any notice to be given by post or by registered post, whether the expression "serve" or "give" or "send" or any other expression is used, the service or notice shall be deemed to be effected by properly addressing, prepaying the postage thereon and dispatching by post or by registered post, as the case may be, to the last known postal address of the person to be served or given notice, an envelope containing the document or notice, and, unless the contrary is proved, such service or notice shall be deemed to have been effected at the time at which the envelope would be delivered in the ordinary course of the post.

Service by post

PART IV

COMMENCEMENT, DISALLOWANCE, AMENDMENT AND REPEAL

Publication and commencement of Ordinances and subsidiary legislation

17. (1) Ordinances and all subsidiary legislation (excepting bye-laws made by local government councils) made in pursuance of any Ordinance shall be published by exhibition at the Public Office of the Beretitenti, and unless otherwise provided therein, shall take effect and come into operation on the date of such publication, and shall in due course be printed in the *Gazette*.

(2) When any Ordinance or any subsidiary legislation or other instrument made thereunder comes into operation on a particular day, it shall be deemed to have come or shall come into operation immediately on the expiration of the day next preceding such day.

Ordinance and amending Ordinance to be read as one

18. Any Ordinance which amends any other Ordinance shall be read and construed as one with the amended Ordinance, and the amended Ordinance may, in the amending Ordinance, be referred to as the "principal Ordinance", "principal regulations" or as the case may be.

Effect of repeal generally

19. Where an Ordinance repeals in whole or in part any other Ordinance, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of any Ordinance so repealed or anything duly done or suffered under any Ordinance so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any Ordinance so repealed;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any Ordinance so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance had not been passed.

Repealed Ordinance not revived

20. Where any Ordinance repealing in whole or in part any former Ordinance is itself repealed, such last repeal shall not revive the Ordinance or provision previously repealed, unless provision is made to that effect.

21. Where any Ordinance repeals in whole or in part any other Ordinance and substitutes other provisions therefor, the repealed Ordinance shall remain in force until the substituted provisions come into operation.

Repeal and substitution

22. Where any Ordinance which has been amended by any other Ordinance is repealed, such repeal shall include the repeal of all those provisions of such other Ordinance by which such first mentioned Ordinance was amended.

Repeal of amended Ordinance to include amendments

23. Upon expiry or lapse of any Ordinance, the provisions of section 19 shall apply as if such Ordinance had been repealed.

Effect of expiry of Ordinance

PART V

SUBSIDIARY LEGISLATION

24. Where an Ordinance confers power on any authority to make subsidiary legislation, the following provisions shall have effect with reference to the making thereof—

General provision with regard to power to make legislation

- (a) when any subsidiary legislation purports to be made in exercise of a particular power or powers, it shall be deemed also to be made in exercise of all other powers thereunto enabling;
- (b) no subsidiary legislation shall be inconsistent with the provisions of any Ordinance;
- (c) subsidiary legislation may at any time be amended by the same authority and in the same manner by and in which it was made:

Provided that where such authority has been replaced wholly or in part by another authority, the power conferred hereby upon the original authority may be exercised by the replacing authority concerning all matters or things within its jurisdiction as if it were the original authority;

- (d) where any Ordinance confers power on any authority to make subsidiary legislation for any general purpose, and also for any special purpose incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose;
- (e) subsidiary legislation may provide that a contravention or breach thereof shall be punishable by such fine not exceeding \$100 or by such term of imprisonment not exceeding 3

months as may be specified in the subsidiary legislation or by both such fine and imprisonment;

- (f) subsidiary legislation may amend any forms contained in the Ordinance under which such subsidiary legislation is made and may prescribe new forms for the purpose thereof and for the purposes of such subsidiary legislation; and
- (g) subsidiary legislation may provide for the imposition of fees and charges in respect of any matter with regard to which provision is made in such subsidiary legislation or in the Ordinance under which such subsidiary legislation is made.

Fees and charges

25. (1) Where provision is made by any subsidiary legislation in respect of fees or other charges, such subsidiary legislation may provide for all or any of the following matters—

- (a) specific fees or charges;
- (b) maximum or minimum fees or charges;
- (c) maximum and minimum fees or charges;
- (d) the payment of fees or charges either generally or under specified conditions or in specified circumstances;
- (e) the exemption of any person or class of persons from the payment of fees or charges; and
- (f) the reduction, waiver or refund, in whole or in part of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

(2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for by any subsidiary legislation, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specially—

- (a) in respect of certain matters or transactions or classes of matters or transactions;
- (b) in respect of certain documents or classes of documents;
- (c) in respect of the occurrence or the termination of any event;
- (d) in respect of certain persons or classes of persons; or
- (e) in respect of any combination of such matters, transactions, documents, event or persons

and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified therein.

26. Where any Ordinance confers powers to make subsidiary legislation, expressions used in the subsidiary legislation shall have the same meaning as in the Ordinance conferring the power, and any reference in such subsidiary legislation to "the Ordinance" shall be construed as a reference to the Ordinance conferring the power to make such subsidiary legislation.

Construction of subsidiary legislation

27. Where an Ordinance is not to come into operation immediately on the publication thereof and confers power to make any appointment, to make any subsidiary legislation, to prescribe forms or to do any other thing for the purposes of the Ordinance, such power may, unless a contrary intention appears, be exercised at any time after the publication of the Ordinance, so far as may be necessary or expedient for the purpose of bringing the Ordinance into operation on the day of the commencement thereof, but so, however, that any instrument made in exercise of such power shall not, unless a contrary intention appears in the Ordinance or the contrary is necessary for bringing the Ordinance into operation, come into operation until the Ordinance comes into operation.

Exercise of powers between publication and commencement of Ordinance

28. An act shall be deemed to be done under an Ordinance or by virtue of the powers conferred by an Ordinance or in pursuance or execution of the provisions of or under the authority of an Ordinance, if it is done under or by virtue of or in pursuance or execution of or under the authority of subsidiary legislation made under any power contained in that Ordinance.

Acts done under subsidiary legislation deemed done under Ordinance

29. (1) Where any Ordinance—

(a) repeals any former Ordinance and substitutes other provisions therefor; or

(b) repeals any former Ordinance and re-enacts such former Ordinance with or without modification,

any subsidiary legislation made under the former Ordinance and in force at the commencement of the repealing Ordinance shall, so far as it is not inconsistent with the repealing Ordinance, continue in force and have the like effect for all purposes as if made under the repealing Ordinance.

Effect of repeal on subsidiary legislation

(2) Where any subsidiary legislation is continued in force by virtue of subsection (1), such subsidiary legislation may be from time to time amended as if it had been made under the repealing Ordinance.

30. Where any form is prescribed by or under any Ordinance, deviations therefrom, not affecting the substance of such form, shall not invalidate it.

Deviation from forms

PART VI

POWERS

Presumption
of lawful
exercise of
power

31. Where any Ordinance confers power upon any person to—
- (a) make any subsidiary legislation;
 - (b) make any instrument; or
 - (c) exercise any power,

and the Ordinance conferring the power prescribes conditions, subject to the observance, performance or existence of which any such power may be exercised, such conditions shall be presumed to have been duly fulfilled if in the subsidiary legislation or instrument exercising the power there is a statement that the subsidiary legislation or instrument is made, or the power exercised, in exercise of, or in pursuance of, the power conferred by such Ordinance, or a statement to the like effect.

Exercise of
powers

32. (1) Where any Ordinance confers any power or imposes any duty, then the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where any Ordinance confers any power or imposes any duty on the holder of any public office as such, then the power may be exercised and the duty shall be performed by the holder for the time being of that public office or by any person duly appointed to act for him.

Construction
of enabling
words

33. (1) Where any Ordinance confers upon any person power to do or enforce the doing of any act or thing, all such powers shall be deemed to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.

(2) Without prejudice to the generality of subsection (1), where any Ordinance confers power—

- (a) to provide for, prohibit, control or regulate any matter, such power shall include power to provide for the same by the licensing thereof and power to prohibit acts whereby the prohibition, control or regulation of such matter might be evaded;
- (b) to grant a licence, lease, permit, authority, approval or exemption, such power shall include power to impose reasonable conditions subject to which such licence, lease, permit, authority, approval or exemption may be granted;
- (c) to approve any person or thing, such power shall include power to withdraw approval thereof;

- (d) to give directions, such power shall include power to couch the same in the form of prohibitions.

34. (1) Where any Ordinance confers power upon any person to issue, grant, give or renew any licence, lease, authority, approval or permit, the person so empowered shall have a discretion either to issue, grant, give or renew or to refuse to issue, grant, give or renew such licence, lease, authority, approval or permit.

Power to issue licences, etc., discretionary

(2) Nothing in this section shall affect any right which may be conferred by any Ordinance upon any person to appeal against a refusal to issue, grant, give or renew any licence, lease, authority, approval or permit.

35. Where any Ordinance confers a power or imposes a duty upon any person to make any appointment or to constitute or establish any board, tribunal, commission, committee or similar body, then the person having such power or duty shall also have the power—

Power to appoint includes power to suspend, dismiss, re-appoint, etc.

- (a) to remove, suspend, dismiss or revoke the appointment of, and to re-appoint or reinstate, any person appointed in exercise of such power or duty;
- (b) to revoke the appointment, constitution or establishment of, or to dissolve, any board, tribunal, commission, committee or similar body appointed, constituted or established, in exercise of such power or duty, and to reappoint, re-constitute or re-establish the same; and
- (c) to specify the period for which any person appointed in exercise of such power or duty shall hold such appointment:

Provided that where the power or duty of such person so to act is only exercisable upon the recommendation, or is subject to the approval or consent, of some other person, then such power shall only be exercisable upon such recommendation or subject to such approval or consent.

36. (1) Where by any Ordinance the exercise of any power or the performance of any duty is conferred or imposed upon any specified public officer, such specified public officer may, unless by law expressly prohibited from so doing, delegate by notice to any public officer or to the person for the time being holding any office specified in such notice, the exercise of such power or the performance of such duty, and thereupon, or from the date specified in such notice, the public officer or the person for the time being holding the office so specified shall have and may exercise such power and perform such duty.

Delegation by specified public officers

(2) Nothing in subsection (1) shall authorise a specified public officer to delegate any power to make subsidiary legislation or to hear any appeal.

(3) Where any Ordinance confers any power or imposes any duty upon a specified public officer and such power is exercised or such duty is performed by any other public officer, the specified public officer shall, unless the contrary is proved, be deemed to have delegated the exercise of the power or the performance of the duty to the latter public officer under subsection (1).

(4) In this section "specified public officer" means the person for the time being holding any public office which has been specified, either generally or for the purposes of any particular Ordinance, under this section by the Beretitenti by notice.

Effect of
delegation of
powers and
duties

37. (1) Where any Ordinance confers power upon any person to delegate the exercise of any of the powers or the performance of any of the duties conferred or imposed upon him under any Ordinance—

- (a) such delegation shall not preclude the person so delegating from exercising or performing at any time any of the powers or duties so delegated;
- (b) such delegation may be conditional, qualified or limited in such manner as the person so delegating may think fit;
- (c) where the delegation may be made only with the approval of some person, such delegation may be conditional, qualified or limited in such manner as the person whose approval is required may think fit;
- (d) the delegation may be to a named person or to the person for the time being holding any office designated by the person so delegating; and
- (e) the delegation may be made to one or more persons or public officers.

(2) The delegation of any power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of any duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.

Exercise of
powers in
special cases

38. Where any Ordinance confers any power or imposes any duty upon the holder of any public office and either—

- (a) that office has been abolished; or
- (b) no person has been appointed to discharge the functions of that office,

those powers and duties may be exercised or performed—

- (i) in the case of making subsidiary legislation, by the Beretitenti; and
- (ii) in any other case, by the holder of such other public office as the Beretitenti may by order direct.

39. Where any Ordinance confers power upon any person to make, issue or approve any proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list, such power shall include power—

Power to make public instruments and perform acts

- (a) to amend or suspend such proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list;
- (b) to substitute another proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list for one already made, issued or approved;
- (c) to withdraw approval of any proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list so approved; and
- (d) to declare the date of the coming into operation, and the period of operation, of any such proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list.

40. Any appointment made under the provisions of any Ordinance may be declared to have effect as from the date upon which the person appointed in fact began to exercise the powers and perform the duties of his appointment, not being a date earlier than the commencement of the Ordinance under which the appointment is made.

Power to relate back appointment

PART VII

BOARDS AND COMMITTEES

41. Where any Ordinance confers power upon any person to appoint any persons to be members of any board, tribunal, commission, committee or similar body, the person so appointing may appoint a chairman, deputy chairman, a vice-chairman and a secretary of such board, tribunal, commission, committee or similar body.

Power to appoint chairman

42. Where any Ordinance confers power upon any person to appoint any persons to be members of any board, tribunal, com-

Power to appoint public officer to board, etc.

mission, committee or similar body, the person so empowered may appoint any public officer, by his official designation, to be a member of such board, tribunal, commission, committee or similar body, and, on such appointment and until such appointment shall be revoked or otherwise determined, the person for the time being holding the public office in question shall be a member of such board, tribunal, commission, committee or similar body.

Appointment of alternate and temporary members

43. Where any board, tribunal, commission, committee or similar body is established by or under any Ordinance, any person who is empowered by such Ordinance to appoint any or all of the members thereof may—

- (a) appoint 1 or more duly qualified persons to be alternate members of the same, and any 1 such alternate member may attend any meeting of the same when a substantive member is temporarily unable to attend for any reason; and
- (b) appoint a duly qualified person to be a temporary member of the same in the place of any substantive member who is precluded by illness, absence from Kiribati or any other cause from exercising his functions as such,

and when attending any meeting of such board, tribunal, commission, committee or similar body, such alternate or temporary member shall be deemed for all purposes to be a member of the same.

Powers of board, etc., not affected by vacancy

44. Where any board, tribunal, commission, committee or similar body is established by or under any Ordinance, the powers of such board, tribunal, commission, committee or similar body shall not be affected by—

- (a) any vacancy in the membership thereof;
- (b) any defect in the appointment or qualification of a person purporting to be a member thereof; or
- (c) any minor irregularity in the convening of any meeting thereof.

Power of majority and exercise of powers

45. (1) Where any Ordinance confers a power or imposes a duty upon a body or number of persons consisting of or being not less than 3, such power may be exercised or duty performed in the name of that body or number of persons by a majority of those persons.

(2) Whenever such body or number of persons is assembled, the chairman or other member presiding shall have a casting as well as a deliberative vote, in all matters in which a decision is taken by vote by whatever name such vote may be called.

(3) The exercise of any power vested in such body or number of persons may be signified either by the chairman or other person presiding at the meeting or other deliberation at which such power was exercised or at which, as the case may be, authority to exercise it was conferred, or by any person from time to time authorised by such body or persons to signify the exercise of such power.

46. Where any Ordinance constitutes any board, tribunal, commission, committee or similar body to be a body corporate having perpetual succession and a common seal, and any document requires to be sealed with such common seal, then such common seal shall be affixed by the chairman of such board, tribunal, commission, committee or similar body, or by any member thereof appointed by the chairman for that purpose, and shall be authenticated by the signature of the chairman or such member. Seal

PART VIII

PUBLIC OFFICERS

47. In any Ordinance, instrument, warrant or process of any kind, any reference to a public officer, or to a person holding a public office by a term designating his office, shall include a reference to any person for the time being lawfully discharging the functions of that office, or any part of such functions, and any person appointed to act in or perform the duties of such office, or any part of such duties, for the time being. References to public officer

48. The Beretitenti may, by notice (which may be given retrospective effect), declare a change in title of any public office or Government department, and such change of title shall have effect from the date specified in such notice or, if no date is specified therein, from the date of publication thereof and with effect from such day, any reference in any Ordinance to the former title of such public office or Government department shall be read and construed as a reference to that office or department by such new title as the Beretitenti may have so declared. Change of title of office

49. Where any Ordinance confers power upon any person to appoint or name a person to have and exercise any powers or perform any duties the person so empowered may either appoint a person by name or direct the person for the time being holding any office designated by him to have and exercise such powers or Appointment of officers by name or office

perform such duties; and thereupon, or from the date specified by the person so empowered, the person appointed by name or the person holding the office aforesaid shall have and may exercise such powers or perform such duties accordingly until such appointment be revoked or otherwise determined.

Power to provide for execution of duties of public officers during absence or inability

50. (1) When any Ordinance confers a power or imposes a duty upon a public officer and such public officer is unable to exercise the powers or perform the duties of his office, owing to absence or inability to act from illness or any other cause, the Beretitenti may, by notice, direct that such power shall be had and may be exercised and such duty shall be performed by a public officer named by, or by a public officer holding the office designated by, the Beretitenti, subject to such conditions, exceptions and qualifications as the Beretitenti may direct.

(2) Any direction by the Beretitenti under subsection (1) may be given—

- (a) in anticipation of any absence or inability occurring; or
- (b) subsequently thereto and may relate back to the commencement of such absence or inability.

(3) Where any Ordinance confers powers or imposes duties upon a public officer and a new post is subsequently created in the same or another Government department, the Beretitenti may, by notice, direct that the said powers and duties or any of them shall be exercised by any holder of the new post so created, either to the exclusion of or in addition to the first named public officer or otherwise.

Power to appoint while holder on retirement leave

51. (1) Where the holder of any public office is on leave of absence pending the relinquishment by him of such office, another person may be appointed to the same public office.

(2) Where 2 or more persons are holding the same public office by reason of an appointment made in accordance with subsection (1), then, for the purposes of any Ordinance and in respect of any power conferred or duty imposed upon the holder of such office, the person last appointed to the office shall be deemed to be the holder thereof.

Government contracts, etc.

52. (1) In any contract or other document signed, executed or made by—

- (a) a Minister on behalf of the Republic or a Government department; or
- (b) a public officer on behalf of a Minister, the Republic or a Government department,

it is not necessary to name the Minister or public officer, and it is sufficient to name the office held.

(2) Where a Minister or a public officer signs, executes or makes (otherwise than on behalf of the Republic) a contract or other document referred to in subsection (1), he shall be deemed to be a party to it as if he were, for that purpose, a corporation sole with perpetual succession.

53. The omission to add the title of the office held by a Minister or a public officer signing, executing or making a contract or other document after the signature of the Minister or officer as the case may be shall not exclude such contract or other document from the operation of section 52.

Omission of title immaterial

54. (1) In all Ordinances and subsidiary legislation a Minister in respect of any matter for which he is responsible and the Beretitenti in respect of all other matters may order that such references by office to a particular public officer as may be specified shall be read and construed as references to such other public officer as may be specified.

Transfer of functions of public officers

(2) The Attorney-General shall cause a copy of every order made under this section to be laid before the Maneaba ni Maungatabu at its sitting next following the date on which the order is made.

PART IX

THE EXECUTIVE GOVERNMENT

55. For the avoidance of doubt, it is hereby declared that—

- (a) nothing in this Part is intended to affect the provisions of section 42 of the Constitution (which relates to the office of Attorney-General), or of any other provision of the Constitution so far as it confers functions on a person or authority; and
- (b) in this Part, "Minister" has the meaning ascribed to it by section 3 (that is a member of the Cabinet).

Interpretation of Part IX

56. (1) Notwithstanding that the law or provision refers to an office of a Minister by name, the Beretitenti may from time to time by notice assign to any Minister responsibility for the administration of any law or any provision of any law, and if responsibility for the administration of any law or any provision of any law has not been so assigned it shall be taken to have been reserved to the Beretitenti.

Allocation of responsibilities to Ministers, etc.

(2) The Attorney-General shall from time to time, with the approval of the Beretitenti, publish a list showing in relation to each law the Minister (if any) to whom responsibility for it, or for any provision of it, has been assigned under subsection (1), and shall from time to time similarly bring the list up-to-date.

(3) Publication for the purposes of subsection (2) shall be by notice published in the *Gazette* and by such other means as the Attorney-General thinks fit or the Beretitenti directs.

(4) Without prejudice to subsection (3), the list referred to in subsection (2) may be combined with the table of contents or chronological list required to be published by section 13 (1) (e) of the Revised Edition of the Laws Ordinance.

Cap. 92.

Changes of
titles of
Ministers,
etc.

57. Where the title or functions of a Minister, a Ministry or a public office is changed, the Beretitenti may by notice amend any reference in any law, or in any document having legal effect, to an appropriate reference having regard to the change.

Validity of
ministerial
acts.

58. (1) Subject to subsection (3), no act of a Minister is open to challenge on the ground that he was not empowered to perform the act, if some other Minister, or any Minister, was so empowered.

(2) Subsection (1) does not apply to—

- (a) the exercise of any function of the Beretitenti acting in accordance with the advice of the Cabinet; or
- (b) the exercise of a function by virtue of a delegation under section 59.

(3) Where—

- (a) the Beretitenti is required by an Act to perform a function in accordance with the advice of the Cabinet or of any other authority, or after consultation with any authority; or
- (b) the Cabinet or any authority established by the Constitution is required by an Act to perform a function after consultation with any other authority,

the question, whether he or it so acted, or what (if any) advice was given, is non-justiciable.

(4) The question, whether any procedures prescribed (otherwise than by the Constitution) for the Cabinet have been or are being complied with is non-justiciable.

Delegation
by Cabinet

59. (1) The Cabinet may by resolution delegate to a Minister

or to a committee of the Cabinet any of its functions under an Act (including the function of advising the Beretitenti).

(2) Where a function of advising the Beretitenti is delegated under subsection (1), the Beretitenti may in any particular case require, notwithstanding that delegation, that the function be exercised by the Cabinet, and may decline to act in accordance with the advice of the Minister or committee, as the case may be.

(3) A reference in any Act to the Beretitenti acting in accordance with the advice of the Cabinet shall be deemed to include a reference to the Beretitenti acting in accordance with the advice of a Minister or of a committee of the Cabinet by virtue of a delegation under subsection (1).

60. (1) Where by any Act the exercise of any power or the performance of any duty is conferred or imposed upon a Minister, he may, unless by law expressly prohibited from so doing, delegate by notice to any public officer, or to the person for the time being holding any office specified in such notice, the exercise of such power or the performance of such duty, and thereupon, or from the date specified in such notice, the public officer or the person for the time being holding the office so specified shall have and may exercise such power and perform such duty.

Delegation
by Ministers

(2) Nothing in subsection (1) shall authorise the delegation of any power to make subsidiary legislation or to determine any appeal.

(3) Where any Act confers powers or imposes duties upon a Minister and such power is exercised or such duty is performed by any public officer, a Minister shall, unless the contrary is proved, be deemed to have delegated to such public officer, under subsection (1), the exercise of the power or performance of the duty.

61. Where any Act confers a power or imposes a duty upon the Beretitenti acting in accordance with the advice of the Cabinet or of any other person or authority, or upon a Minister, to make any subsidiary legislation or appointment, give any directions, issue any order, authorise any thing or matter to be done, grant any exemption, remit any fee or penalty or exercise any other power or perform any other duty, the exercise of such power or the performance of such duty may in the case of the Beretitenti, acting in accordance with the advice of the Cabinet or of any other person or authority, be signified under the hand of the Secretary to the Cabinet, and in the case of a Minister be signified under the hand of the Secretary to the relevant department of government.

Signification
of order, etc.,
of Cabinet,
etc.

Rights and
duties of the
Attorney-
General

62. (1) The Attorney-General shall be entitled to the same rights in the courts of Kiribati, and as to the institution of and participation in proceedings therein as are enjoyed in England by Her Majesty's Attorney-General.

(2) The Attorney-General shall exercise and discharge, so far as regards any proceedings over which the courts of Kiribati have jurisdiction in matrimonial causes, the rights and duties which in England are customarily exercised and discharged by the Queen's Proctor.

(3) The Attorney-General is *ex officio* justice of the peace for Kiribati.

(4) The rights and functions of the Attorney-General as contained in this Ordinance are in addition to and not in derogation of any rights and functions which he may have apart from this Ordinance.

(5) In this section—

"matrimonial causes" includes petitions for divorce, for nullity of marriage, for presumption of death and for dissolution of marriage;

"rights" includes powers, privileges, and discretions.

PART X

TIME AND DISTANCE

Time

63. (1) The standard time of Kiribati is 12 hours in advance of Greenwich Mean Time.

(2) Whenever any expression of time occurs in any Ordinance, deed or instrument, the time referred to shall, unless it is otherwise expressly provided, be the standard time of Kiribati.

References to
"a.m." and
"p.m."

64. The expression "a.m." indicates the period between midnight and the following noon, and the expression "p.m." indicates the time between noon and the following midnight; and where 2 such expressions occur conjunctively in relation to any specified hour or in conjunction with the word "sunset" or "sunrise" they shall be construed as relating to a consecutive period of time.

Provision
where no
time pre-
scribed

65. Where no time is prescribed or allowed within which anything shall be done, such thing shall be done without unreasonable delay, and as often as due occasion arises.

66. In computing time for the purposes of any Ordinance— Computation of time
- (a) a period of days from the happening of any event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;
 - (b) if the last day of the period is a Sunday or public holiday the period shall include the next following day, not being a public holiday;
 - (c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day is a Sunday or public holiday, the act or proceeding shall be considered ~~as done or taken in due time if it is done or taken on the~~ next following day, not being a Sunday or public holiday;
 - (d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding 6 days, no Sunday or public holiday shall be reckoned in the computation of that time.

67. Where in any Ordinance a time is prescribed for doing any act or taking any proceeding and power is given to a court, public body, public officer or other authority to extend such time, then the power may be exercised by the court, public body, public officer or other authority although the application for the same is not made until after the expiration of the time prescribed. Power to extend time

68. In the measurement of any distance for the purposes of any Ordinance, that distance shall be measured in a straight line on a horizontal plane. Distance

69. Any summons, notice, warrant or other process may be issued, served or executed and any arrest, search or seizure may be carried out or made on any day, whether a public holiday or not, and at any hour of the day or night. Warrants, etc., valid on public holiday

PART XI

STATUTES OF GENERAL APPLICATION, ETC.

70. This Part applies to statutes of general application and other laws of England (other than the common law of England) that apply as part of the law of Kiribati. Application of Part XI

71. This Part shall not be construed as adopting as part of the Effect of Part XI

law of Kiribati any law of England, or as giving to any such law any force or effect in or in relation to Kiribati that it otherwise would not have.

Modifications 72. A law of England to which this Part applies shall be judicially noticed as such and shall be read with such modifications as to names, localities, courts, officers, persons, moneys, penalties or otherwise as may be necessary to make the same applicable to the circumstances of Kiribati.

Citation 73. A law of England to which this Part applies may be cited in any way in which it is permissible or customary to cite it in England.

Construction 74. Any law of England to which this Part applies shall be construed in accordance with the terms thereof and of any interpretation statute in force in England applicable thereto and, to the extent to which no provision is made in that law or in such statute for the interpretation thereof, in accordance with the provisions of this Ordinance as if that law were itself an Ordinance; and any reference in this Ordinance to an Ordinance shall, in the interpretation of any such law, include a reference to laws of England to which this Part applies.

Proof 75. (1) A copy of—
 (a) any printed collection purporting to be printed or published by authority; or
 (b) the *Gazette*, purporting to be printed by the Government Printer,
 containing any laws of England to which this Part applies, shall be *prima facie* evidence in all courts and for all purposes whatsoever of the due making and tenor of those laws, without any proof being given that such copy was so printed.

(2) In subsection (1)—
 "the *Gazette*" includes any *Gazette* of the Gilbert and Ellice Islands Colony or of the Gilbert Islands;
 "the Government Printer" includes a Government Printer for the Gilbert and Ellice Islands Colony or for the Gilbert Islands.

PART XII

MISCELLANEOUS

Acts constituting 2 or more offences 76. Where any act constitutes 2 or more offences, whether

under the same Ordinance or otherwise, the offender shall be liable to be prosecuted and punished for any or all such offences but shall not be liable to be punished twice for the same offence.

77. The imposition of a penalty or fine by or under any Ordinance shall not relieve any person from liability to answer in damages to a person injured.

Imposition of penalty not to bar civil action

78. Where in any Ordinance a penalty is prescribed for an offence under that Ordinance, such provision shall imply—

Penalties prescribed to be deemed maximum penalties

(a) that such offence shall be punishable upon conviction by a penalty not exceeding the penalty prescribed; and

(b) if the amount of the fine is unspecified, that such offence shall, without prejudice to any law against excessive or unreasonable fines or assessments, be punishable by a fine of any amount.

79. Where in any provision of an Ordinance liability to a penalty is expressed the same shall mean that any contravention of that provision shall be an offence punishable upon conviction by a penalty not exceeding the penalty set out therein.

Where liability to penalty is expressed

80. Where in any Ordinance more than 1 penalty is prescribed for an offence, the use of the word "and" shall mean that the penalties may be inflicted alternatively or cumulatively.

Certain penalties may be cumulative

81. Where the fiat, authorisation, sanction, consent or authority of a Minister or a public officer is necessary before any prosecution or action is commenced, or for any purpose whatsoever in connection with any proceeding, any document purporting to bear the fiat, authorisation, sanction, consent or authority of the Minister or officer, as the case may be, shall, until the contrary is proved, be received as evidence in any proceeding without proof being given that the signature to such fiat, authorisation, sanction, consent or authority is that of the Minister or officer.

Evidence of signature of fiat, etc.

82. Any fine or penalty imposed by or under the authority of any Ordinance shall, in the absence of express provision to the contrary be paid into the general revenue of Kiribati.

Disposal of fines and penalties

83. (1) Where under any Ordinance any movable property is adjudged by any court or other authority to be forfeited, it shall be forfeited to the Republic, and the net proceeds thereof, if it is ordered by a competent authority to be sold, shall be paid into the general revenue of Kiribati.

Disposal of forfeits

~~(2) Nothing in this section shall affect any provision in any Ordinance whereby any portion of any forfeit or of the proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person.~~

Collection of fees

84. (1) Where by any Ordinance the signature of a Minister or of any public officer is required to any certificate, authorisation, consent, licence, permit or exemption, or any alteration, transfer or renewal thereof, addition thereto or endorsement thereon, or any copy of the same, and no fee for such signature is prescribed by law, there shall be payable for such signature such fee as the Beretitenti, acting in accordance with the advice of the Cabinet, may prescribe by notice.

(2) Where an Act requires or authorises the issue of a document by a Minister or a public officer, then—

- (a) the Minister may; and
- (b) the public officer may, subject to any directions of the Minister,

issue a copy or duplicate of the document, on payment of such fee—

- (c) as is fixed by any law; or
- (d) if no fee is so fixed—as is fixed, by notice, by the Beretitenti, acting in accordance with the advice of the Cabinet.

(3) Where any Ordinance requires or authorises any alteration, transfer or endorsement of or addition to any certificate, authorisation, consent, licence, permit or exemption by a public officer, such fee shall be payable therefor as may be prescribed by law or as the Beretitenti, acting in accordance with the advice of the Cabinet, may prescribe by notice if no fee is prescribed by law.

(4) Where an extract of any document, book, record or instrument may be properly certified by a public officer as a true extract of such document, book, record or instrument, such fee shall be payable for the certifying of the extract by such officer as may be prescribed by law or as the Beretitenti, acting in accordance with the advice of the Cabinet, may prescribe by notice if no fee is prescribed by law.

Gazette and public notices to be evidence of matters therein

85. (1) A copy of the *Gazette*, or a copy of a notice purporting to have been published and exhibited at the Public Office of the Beretitenti, containing any Ordinance or any instrument, or a copy of any Ordinance or any instrument purporting to be printed by

the Government Printer, shall be *prima facie* evidence in all courts and for all purposes whatsoever of the due making and tenor of such Ordinance or instrument and the date of publication recorded therein, without any proof being given that such copy of the *Gazette*, Ordinance or instrument was so printed or that such copy of the notice was so published and exhibited, as the case may be.

(2) In subsection (1)—

“the *Gazette*” includes any *Gazette* of the Gilbert and Ellice Islands Colony or of the Gilbert Islands;

“the Government Printer” includes any Government Printer for the Gilbert and Ellice Islands Colony or the Gilbert Islands.

(3) The reference in subsection (1) to publication and exhibition at the Public Office of the Beretitenti shall be deemed to include a reference to any other form of promulgation required before Independence Day.

86. The Government Printer may, with the authority of the Attorney-General, print copies of any Ordinance with all additions, omissions, substitutions and amendments effected by any amending Ordinance, and such copies shall, until the contrary is proved, be deemed to be authentic copies of the Ordinance so amended as at the date of such printing.

Reprint of
Ordinances

87. (1) Where any person, public officer, government department or public body is required to do anything for which a fee is to be paid or a charge made under any Ordinance, such person, public officer, Government department or public body may decline to do that thing until the fee or charge is paid or, where the precise amount of the payment to be made cannot be ascertained until the thing is done, until there be paid such amount as may be estimated to be the correct amount by the person, public officer or the responsible officer of the Government department or public body required to do the thing.

Performance
of acts for
which pay-
ment
required

(2) Where a thing has been done for which an estimated amount shall have been paid, such amount shall be adjusted to the correct amount either by means of a further payment or by a refund of the amount overpaid.

NOTE. The Subsidiary Legislation is specifically omitted.