

THE REPUBLIC OF KIRIBATI
(No. 1 of 1986)

I assent,

M. Tabai
Beretitenti,
24/7/86

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE PAROLE
BOARD AND FOR CONNECTED PURPOSES

Commencement: 24/7/86

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 Parole Board Act 1986.
- Interpretation 2. In this Act, unless the context otherwise requires -
- "the Board" means the Parole Board established under section
 3 of this Act;
- "offender" means any person convicted of any offence and
 undergoing a sentence of imprisonment;
- "paroled offender" means an offender released on parole under
 section 14 of this Act;
- "parole officer" means a parole officer appointed under
 section 19 of this Act;
- Cap. 76 "prison officer" has the same meaning as in the Prisons
 Ordinance;
- "sentence of imprisonment" includes the aggregate punishment
 imposed in the form of consecutive sentences.

PART II
PAROLE BOARD

- Establishment
of the Board 3(1) There is hereby established a Board called the Parole
Board which shall consist of the following 5 members:

- (a) A chairman;
- (b) A judge of the High Court or a magistrate;
- (c) A registered medical practitioner;
- (d) A parole officer; and
- (e) An elected member of a council.

(2) All the members of the Board shall be appointed by the Minister acting in accordance with the advice of the Cabinet, for a term of 3 years.

(3) Any member may resign his office by notice in writing addressed to the Minister and from the date of receipt of such notice by the Minister such member shall cease to be a member of the Board.

General powers
of the Board

4. The Board shall have power to deal with any person convicted of any offence and undergoing a sentence of imprisonment and of any person released on parole under Part III of this Act while serving any such sentence.

Meetings and
procedure of
the Board

5(1) Meetings of the Board shall be held at such times and places as the Board or the Chairman appoints.

(2) At any meeting of the Board 3 members shall form a quorum.

(3) Subject to the provisions of this Act, the Board may regulate its procedures in such manner as it thinks fit.

Secretariat
of the Board

6. The Minister shall provide the Board with secretarial and administrative services.

Functions of
the Board

7(1) The Board shall have power to deal with and decide as to -

- (a) the release on parole of any offender eligible for parole under section 11 of this Act;
- (b) the remission, suspension or variation of any condition of parole of any offender, or the imposition on any such offender of any additional condition of parole.

(2) In considering any case under this section the Board may have regard to or request any person to provide any information or representation which in the Board's opinion may be of assistance in reaching a decision including any information or representation concerning -

- (a) the safety of the public, and of any person or class of persons who may be affected by the release of the offender;
- (b) the welfare of the offender and his reformation and training in prison in which he is detained;
- (c) the sentence imposed by the Court and any comments by the Court when such sentence was imposed;

- (d) any recommendation made by the Superintendent of Prisons;
- (e) any representation made by the offender or any person acting in his behalf;
- (f) the probable circumstances of the offender if released;
- (g) the likely response of the offender to supervision by the parole officer;
- (h) any other information or representation which the Board may think fit.

(3) The Board shall prepare and send an annual report of its proceedings to the Minister within three months after the end of each year.

Applications for
Prerogative of
Mercy

8(1) In addition to the functions of the Board under the provisions of section 7 of this Act the Board shall receive and compile an application by or from any person requesting for the exercise of the Prerogative of Mercy under section 50 of the Constitution which the Board shall send forthwith to the Cabinet through the Office of the Beretitenti for consideration and decision.

(2) All applications under subsection (1) shall be sent in the prescribed form to the secretariat of the Board as provided for under section 6 of this Act.

Saving of Board
members from
liability

9. No member of the Board shall be liable to any action or suit whatsoever in respect of any act, error or omission in the exercise of any functions conferred or imposed on the Board or any member by this Act or any other Act.

Remuneration
of members

10(1) Every member of the Board who is not a full-time salaried employee of the Government shall be paid such remuneration, travelling expenses and other allowances as may from time to time be fixed by the Cabinet.

(2) All payments made pursuant to this section shall be paid out of money appropriated by the Maneaba ni Maungatabu.

PART III
RELEASE AND SUBSEQUENT SUPERVISION
OF OFFENDERS

Eligibility
for parole
consideration

11(1) Every offender shall be eligible for consideration by the Board for release on parole upon the expiry of the following periods from the date of his reception in a prison after sentencing:

- (a) 10 years in the case of every prisoner undergoing imprisonment for life;
- (b) 1 year or after the expiry of one half of the term of the sentence of imprisonment whichever period is longer, in the case of every prisoner undergoing a sentence of one year or more other than a sentence of life imprisonment or detained under section 144 or 146(2) or (3) of the Criminal Procedure Code or any similar provision.

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(2) The Board shall consider the case of every offender as soon as practicable after the expiry of the terms as provided in subsection (1) of this section and at least once in every period of 12 months thereafter.

(3) After any prisoner has become entitled to have his case considered for the first time under subsection (1) of this section, he may from time to time apply to the Board for the further consideration of his case.

Provided that no application under this subsection shall be made to the Board at any time within 12 months after the making of a previous application under this subsection.

(4) Any member of the Board may at any time after the expiration of the appropriate period provided for in subsection (1) of this section request the Board to consider any case and on such request the Board may consider such case.

(5) In considering any case under this section the Board or any member authorised in writing by the Board may interview the prisoner at the prison in which he is detained or require the offender to attend before a meeting of the Board or the prison officer to bring such offender to attend before the meeting of the Board.

Periodical
reports on
certain prison-
ers

12. For the purposes of this Act the Superintendent of Prisons or any other person authorised by him in that behalf shall submit an annual report in the prescribed form to the Board within two months after the end of each year of a sentence of imprisonment on the general condition of every offender who is undergoing -

- (a) imprisonment for life;
- (b) a sentence of imprisonment of one year or more;
and

- (c) any other offender who is detained under section 144 or 146(2) or (3) of the Criminal Procedure Code or any similar provision.

Term of parole

13(1) Where any offender who is detained under sentence of imprisonment of one year or more, not being imprisonment for life, or detained under section 144 and section 146(2) or (3) of the Criminal Procedure Code or any similar provision is released from detention before the expiry of the maximum term, for which he is liable to be detained under the sentence, he shall be on parole from the time of his release, until the expiry of the term of his sentence.

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(2) Where any offender detained under a sentence of imprisonment for life is released from detention, he shall be on parole, from the time of his release, for the rest of his life.

Parole Order

14(1) The Board may by order release on parole any offender subject to the general conditions set out in section 15 of this Act and any special conditions as the Board thinks fit, which shall be incorporated in such parole order.

(2) Every parole order shall be

- (a) in writing;
- (b) signed by the Chairman of the Board or any other member authorised by the Board; and
- (c) given to the offender prior to his release from prison.

Conditions of parole

15(1) Where any offender is released on parole, the following general conditions shall apply:

- (a) within 24 hours after his release on parole he shall report in person to the parole officer at the place stated in the parole order or if he does not proceed directly to that place, then he shall report to some other parole officer within 48 hours of his release on parole;
- (b) he shall report to the parole officer under whose supervision he is for the time being as and when he is required to do so by the parole officer;
- (c) he shall give to the parole officer and the Superintendent of Prisons reasonable notice of his intention to move from his address and if he moves to any other address, he shall within 48 hours after his arrival at that other address, notify his parole officer of his arrival, his new address, and the nature and place of his employment (if any);
- (d) he shall not reside at an address that is not approved by the parole officer;
- (e) he shall not continue in any employment, or continue to engage in any occupation, that is not approved by the parole officer;

(f) he shall not associate with any specified person, or with persons of any specified class, with whom the parole officer has in writing warned him not to associate;

(g) he shall be of good behaviour and shall not commit any offence against the law.

(2) Every parole offender shall be under the supervision of a parole officer in whose district or area of authority he resides for the time being, or of such other parole officer as the Chief Parole Officer may from time to time direct.

(3) Any paroled offender or his parole officer may at any time apply to the Board for the remission, suspension, or variation of any general or special condition of parole.

(4) Any parole officer may apply to the Board for the imposition of any additional condition of parole in respect of any paroled offender under his supervision.

Recall of
offender
released on
parole

16. The Board may for any reason at any time direct in writing that a paroled offender be recalled. On the giving of the direction, the parole order shall be deemed to be cancelled, and the paroled offender may be arrested without a warrant by any police or prison or parole officer and shall continue to serve his sentence unless he is again released on parole by the Board under this Act or under the Prisons Ordinance as the case may be.

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Term of parole
deemed part
of sentence

17. Whenever any person detained under any sentence is released on parole before the expiry of the sentence, the term of the sentence shall continue to run while he is on parole as if he were still serving the sentence and the date of expiry of the sentence shall be determined accordingly.

Offence to
breach condi-
tions of
parole

18(1) Every paroled offender who contravenes or fails to comply with any condition of his parole commits an offence and shall be liable on conviction to imprisonment for a term of 12 months or to a fine of \$100.

(2) Where any parole or prison or police officer believes on reasonable grounds that any paroled offender has committed a breach of a condition of his parole, he may arrest the offender without warrant.

(3) The conviction and sentencing of any paroled offender under this section shall not limit the power of recall conferred by this Part of this Act.

PART IV
PAROLE OFFICERS

Parole officers

19. A chief parole officer and such other parole officers as are required for the purposes of this Act shall be appointed by the Minister from amongst suitable persons employed in the public service of the Government.

Powers and
duties of
parole officers

20(1) A parole officer may and shall when so required by the Board -

- (a) report to the Board on the character and personal history of any offender released on parole or undergoing a sentence of imprisonment with a view to assisting the Board in determining the most suitable method of dealing with his case; and
- (b) in such report advise the Board whether the offender would be likely to respond satisfactorily to parole and whether any special condition of parole should be imposed.

(2) It shall be the duty of every parole officer -

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- (a) to supervise all persons placed under his supervision under this Act or Section 59A of the Prison Ordinance with a view to assisting their local rehabilitation and preventing the commission of further offences; and
- (b) to perform such other duties as may be prescribed by this Act.

(3) In the exercise of his powers and duties under this Act, every parole officer shall have the powers, protection and privileges of a police officer.

PART V

Regulations

21. The Minister may make regulations generally for the purpose of carrying this Act into effect and for the due administration thereof and in particular for the following matters -

- (a) the forms required to be prescribed under this Act;
- (b) any other matter that may be required to be prescribed under the Act.

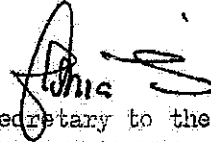
This printed impression has been examined by me with the Bill which passed the Maneaba ni Maungatabu on the 12th day of May, 1986 and is found by me to be a true and correctly printed copy of the said Bill.



Clerk to the Maneaba
ni Maungatabu

Published by exhibition -

(a) at the Public Office of the Beretitenti this
24th day of July 1986.



Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu this
24th day of July 1986.



Clerk to the Maneaba
ni Maungatabu

THE PAROLE BOARD ACT 1986

EXPLANATORY MEMORANDUM

The principal object of this Act is to establish a Parole Board which should be empowered to deal with and decide on matters relating to the release on parole and supervision thereof of a prisoner who is serving a sentence of imprisonment.

Scheme of the Act

It will be seen that this Act is divided into five Parts.

1. Part I. This provides for preliminary matters such as the short title and the definition of terms used in the Act.
2. Part II. This provides for membership of the Board of five, who are to be appointed by the Minister on the advice of the Cabinet (Section 3)

Under the same Part the Board is empowered -

- (a) to deal with any offender who is detained in prison or has been released on parole under this Act (Section 4).
- (b) to release on parole any offender and remit, suspend or vary etc any condition of parole, subject to certain matters which must be taken into account when doing so (Section 7).
- (c) to receive and compile any application for the granting of a Prerogative of Mercy under section 50 of the Constitution (Section 8).

It is intended under this provision that for future applications under section 50 of the Constitution the Board be made responsible for the receipt, compilation and transmission to the Cabinet of such applications. Presently no systematized procedures exist for such applications apart from a direct application to the Beretitenti. It is to be noted that the power conferred on the Board under this provision is merely one of receipt, compilation and transmission. It cannot however reject, consider nor make any decision on the application as such power is reserved to the Cabinet and the Beretitenti.

3. Part III. This Part provides for the release on parole and the subsequent supervision of offenders released as such.

As an operative Part of the Act it has the following features.

- (1) Eligibility for parole.
 - (a) Section 11 provides for the periods of eligibility of an offender for parole consideration by the Board as follows:

- (i) Imprisonment for life 10 years after serving such sentence in prison;
 - (ii) a sentence of one year or more 1 year or after the expiry of one half of the term of imprisonment.
- (2) Periodical reports by the Superintendent of Prisons on certain offenders or prisoners as provided for in Sec 12.
- (3) Other matters which are dealt with under this Part are -
- (a) Term of parole, (Section 13);
 - (b) Parole Order (Section 14);
 - (c) Conditions of parole (Section 15);
 - (d) Recall of offenders (Section 16);
 - (e) Term of parole deemed part of sentence; and
 - (f) Offence to breach conditions of parole.

It is to be noted that the power of recall of the Board is very wide in order to enable the Board to deal with any emergency situation.

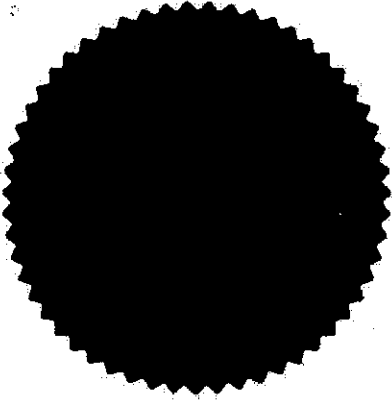
4. Part IV. This deals with parole officers who are to be appointed by the Minister. It is to be noted that in view of the shortage of trained social welfare officers who normally should be appointed as parole officers it will be open to the Minister to appoint under the Act any person employed in the public service to serve as a parole officer some of whom may be trained social welfare officers.

Michael N. Takabwe
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. Takabwe
The Attorney General
23 July 1985



REPUBLIC OF KIRIBATI
(No. 8 of 2005)

I assent,

Aute Tui

Beretitenti
30th Dec, 2005

AN ACT TO AMEND THE *PAROLE BOARD ACT* 1986.

Commencement:
2005

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

1. **Short title**

This Act may be cited as the *Parole Board (Amendment) Act* 2005.

2. **Definition of principal Act**

In this Act, 'principal Act' means the *Parole Board Act* 1986.

3. **Amendment of section 11**

Section 11 of the principal Act is amended by-

(a) repealing subsection (1) and substituting the following subsection-

"(1) Every offender undergoing a sentence of imprisonment of two years or more shall be eligible for consideration by the board for release on parole upon the expiry of the following periods from the date of his reception in a prison after sentencing-

(a) in the case of an offender undergoing imprisonment for life – such period as may be fixed by the court under subsection (1A) or, where no such period has been fixed, 10 years;

(b) in the case of any other offender – one-half of the term of imprisonment.”;

(b) inserting after subsection (1) the following subsections-

"(1A) Where a court sentences an offender to imprisonment for life, it may, at the time of passing sentence, and having regard to the particular circumstances of the case, fix a period longer or shorter than the standard period of 10 years referred to in paragraph (a) of subsection (1).

- (1B) Subsection (1A) applies only in relation to an offence committed-
- (a) after the commencement of the *Parole Board (Amendment) Act 2005*; or
 - (b) before the commencement of that Act if, at that commencement, the offender has not been sentenced for the offence.
- (1C) For the avoidance of doubt, a person detained under section 144(4) or section 146(2) or (3) of the *Criminal Procedure Code* (dealing with the detention of persons of unsound mind), or any similar provision, is deemed not to be serving a sentence of imprisonment for the purposes of this section.”.

4. New section 13

Section 13 of the principal Act is repealed and the following section substituted-

“13. Term of Parole

- (1) Where an offender to whom section 11(1)(a) applies is released under section 14, he shall be on parole from the time of his release for the rest of his life, unless sooner recalled under section 16.
- (2) Where an offender to whom section 11(1)(b) applies is released under section 14, he shall be on parole from the time of his release until the expiry of the term of his sentence, unless sooner recalled under section 16.”.

PAROLE BOARD (AMENDMENT) ACT 2005**EXPLANATORY MEMORANDUM**

In a number of High Court cases the Chief Justice has called for changes to be made to the law to expand the court's sentencing options when dealing with persons convicted of murder (most recent in High Court Criminal Case 65 of 2004, *The Republic v. Tioti Toromon and Tokametaake Katia*). At present the Court has no option but to sentence such persons to life imprisonment, with eligibility for parole after 10 years. The Court therefore has no discretion to reflect the particular circumstances of a case by passing a lighter (or tougher) sentence than as usual.

The amendments introduced by this Act will enable the Court, when sentencing an offender to imprisonment for life, to order that the offender be eligible for parole at a time either earlier or later than the usual 10 years. One advantage offered by this approach will be that the court can ensure that a person convicted of a particular serious murder will remain imprisoned for a longer than normal. The court can also, by ordering that the offender be eligible for parole sooner than might usually be the case, reflect any extenuating circumstances, such as where the offender has pleaded guilty. Those guilty of murder will still be sentenced to imprisonment for life, so the seriousness with which the community views the crime of murder is not diminished. Once released on parole, such offenders will remain on parole for the rest of their lives.

The opportunity is also taken to clarify the language of some of the other provisions of the *Parole Board Act* ("the principal Act") to address problems of interpretation that have been experienced in its application.

Section 3(a) of this Act replaces subsection (1) of section 11 of the principal Act, principally to improve the wording of the original subsection.

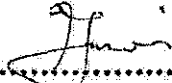
Section 3(b) inserts three new subsections into section 11. The new subsection (1A) introduces the concept of a court being able to vary the non-parole period for an offender sentenced to imprisonment for life. Subsection (1B) limits the application of the new sentencing discretion to cases which come before the court after the Act becomes law. Those already serving life sentences at the time the new provisions come into force will remain eligible for parole after 10 years. Subsection (1C) takes a concept that was contained in the former subsection (1) and states it more clearly, to avoid any misconceptions that the principal Act might apply to those who are detained indefinitely, either because they were of unsound mind at the time the offence was committed or because their mental illness rendered them unfit to stand trial.

Section 4 replaces section 13 of the principal Act with a more straightforward restatement of the existing law.

Titabu Tabane
Attorney General
2 May 2005

**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 5th December 2005 and is found by me to be a true and correctly printed copy of the said Bill.



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Ioataake Timeon
Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this ...^{30TH}.....
day of ...DECEMBER..... 2005.



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Clerk of the Maneaba ni Maungatabu