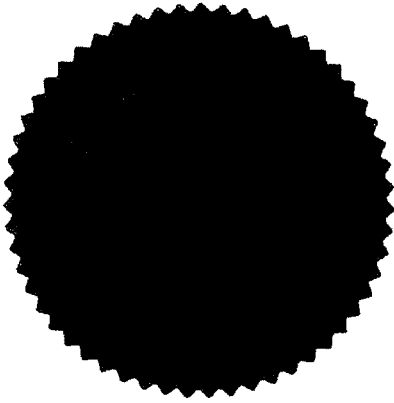


Republic of Kiribati

(No. 7 of 2018)



I assent,


Beretitenti

Commencement

3/12/ 2018

AN ACT

entitled

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

PART I

PRELIMINARY

Short Title

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

Interpretation

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

"Legal aid" means legal aid provided under this Act;

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

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

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

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

PART II

ESTABLISHMENT OF THE OFFICE OF THE PUBLIC LEGAL SERVICES

Office of the Public Legal Services

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

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

Appointment of the Director and Staff

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

Qualifications

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

Functions of the Director

6. (1). The Director shall:-

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

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

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

Legal Services not subject to any authority

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

PART III

PROVISION OF LEGAL SERVICES

Provision of legal services

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

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

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

Duties to be observed in the provision of legal service

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

Application for legal service

10. (1). Subject to section 7, any person may apply to the Director of the Public Legal Services for any legal assistances.
- (2). Nothing in subsection (1) prevents a person from making an application on behalf of another person.
- (3). An application is to be made in the manner and form prescribed by regulations.

False application

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

Immunity

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

Part IV

Public Legal Services Special Fund

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

Payment into the Fund

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

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

Payment out of the Fund

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

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

Monies to be issued by warrant

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

Funds not to form part of Government Revenue

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

Part V

MISCELLANEOUS

Discretion of court or tribunal as to costs

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

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

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

Annual report

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

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

Regulations

20. The Minister may make regulations –

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

Introduction

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

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

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

Overview of each part

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

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

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

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

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

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

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

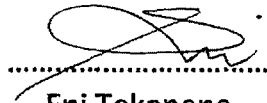
Section 19 is the regulation making powers provide for the Minister to allow for the advancement of the Act or provisions of the Act.

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Hon. Natan Teewe
Minister for Justice

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

This printed impression of the Public Legal Services Act 2018 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 20th August 2018 and is found by me to be a true and correctly printed copy of the said Bill.



Eni Tekanene
Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this day of
..... 2018.

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Eni Tekanene
Clerk of the Maneaba ni Maungatabu