

THE REPUBLIC OF KIRIBATI

PUBLIC RECORDS ACT 1983

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THE REPUBLIC OF KIRIBATI
(No. 13 of 1983)

I assent,

Y. Tabai
Beretitenti.
18/8/ 1983.

AN ACT TO PROVIDE FOR THE PRESERVATION
OF THE PUBLIC RECORDS OF KIRIBATI
AND FOR CONNECTED PURPOSES.

Commencement:
15th August 1983.

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 Public Records Act 1983.
- Interpretation. 2. In this Act, unless the context otherwise requires -

"Archives office" means the National Archives of Kiribati
established under section 4 of this Act;

"Archivist" means the Archivist appointed under section 5
of this Act;

"Government office" means any ministry, department, office,
agency, or instrument of any kind of the legislative
or executive or judicial government of Kiribati, and
includes any office or corporation or other body
declared by the Beretitenti acting in accordance with
the advice of Cabinet to be a Government office for
the purpose of this Act;

"public records" means all such documentary materials of any
kind, nature or description which have been drawn up,
made, received, acquired or used in the course of
legislative, administrative or executive transactions
or in proceedings in any court, together with all
exhibits and other material evidences which form part
of or are annexed to or are otherwise related to
specific documents, which are or are required to be
in the custody of any public officer or Government

office or which may at the commencement of this Act of thereafter be transferred to or acquired by the Archives office.

Applications.

3. Nothing in this Act or in any regulations made under it shall apply with respect to any public record which has been drawn up, received, acquired or used by any Government office if such record discloses any information which is required to be kept secret pursuant to the provisions of any enactment.

PART II - ADMINISTRATION

Archives office.

4(1) There is hereby established an archives office to be known as "the National Archives of Kiribati" wherein shall be stored for preservation such of the public records of Kiribati as are transferred thereto or acquired by the Archivist under the provisions of this Act.

(2) Subject to any general or special directions which may be given to him by the Minister, the Archivist may by contract or bequest or in any like manner acquire for the Archives office all such original records, manuscripts and other documentary materials, or copies or replicas thereof, other than public records, as he may deem necessary or desirable to secure and all such materials shall be deemed to be public records of Kiribati for the purposes of this Act.

Archivist.

5. The Minister acting in accordance with the advice of the Public Service Commission shall appoint an Archivist who shall, subject to any directions given to him by --

- (a) the Minister, in respect of the public records of Kiribati; or
- (b) the appropriate government or administration, in respect of the public records of such government administration other than of Kiribati as may deposit its records in the Archives office pursuant to the provisions of section 4(2) of this Act,

be charged with the care, custody, control and administration of the public records in the Archives office and the public access thereto and with the performance of any other duties prescribed by this Act.

Functions of the Archivist's powers.

6. The Archivist may from time to time delegate in writing any of his powers under this Act, except the power of authorising the destruction or disposal of public records, to any person or class of persons.

PART III - CUSTODY AND PRESERVATION OF
ARCHIVES

Deposit of public records in the Archives office. 7(1) All public records of the age of fifteen years or over (other than those which under any enactment are required to be held in the custody of a specified person or Government office) which in the opinion of the Archivist are of sufficient value to warrant their preservation as -

- (a) evidence of the organisation, functions and transactions of the Government office in which they were originally made or received; or
- (b) evidence of public or private personal or property rights or civic rights; or
- (c) containing historical or general information,

shall be transferred to the custody of the Archivist and be deposited in the Archives office.

(2) Notwithstanding anything in the last preceding subsection contained -

- (a) where the Archivist is satisfied that the deposit in the Archives office of any particular public record of the age of fifteen years or over would unduly prejudice the effective administration of any Government office, he shall defer the deposit of that public record for such period as may be agreed upon between the Archivist and the administrative head of the Government office affected;
- (b) where the administrative head of the Government office having the possession or control of any public record satisfies the Archivist that by reason of its secret or confidential nature it would not be in the public interest immediately to deposit that record in the Archives office, the Archivist shall from time to time defer the deposit of that public record for such period as may be agreed upon between that administrative head and the Archivist;
- (c) where the Minister in charge of any Government office certifies that in his opinion any specified public record or specified class of public records in the custody or control of the Government office contains information the release of which may adversely affect the security of Kiribati or relations between

the Government of Kiribati and the government of any other country, the deposit in the Archives office of that public record or of public records of that class shall be deferred for such period or shall be made subject to such conditions as to access or otherwise as that Minister from time to time directs;

(d) where the deposit of any public record in the Archives office is deferred as aforesaid, the Archivist may prescribe any conditions he thinks fit to ensure the safe preservation of any such record during the time they are kept in a Government office.

(3) Any public records deposited under the provisions of the last preceding subsection may be deposited unconditionally or, if the administrative head of the Government office making the deposit so requires, shall be deposited subject to such conditions as to access and otherwise as may be agreed upon from time to time by the Archivist and the administrative head of that office.

(4) Where the administrative head of any Government office and the Archivist are unable to agree as to whether or not the deposit of any public records in the Archives office should be deferred or as to the period for which that deposit should be deferred or as to the conditions as to access and otherwise on which any public records should be so deposited, that question shall be determined by the Beretitenti acting in accordance with the advice of Cabinet, and his decision shall be final.

Deposit of public records of less than fifteen years of age.

8(1) The Archivist may allow the deposit in the Archives office of public records of less than fifteen years of age if he considers that they are of sufficient value for deposit.

(2) Any deposit of public records under the provisions of the last preceding subsection may be subject to any special conditions imposed by the administrative head of the Government office making the deposit.

Public records not in the Archives office.

9(1) The Archivist may from time to time inspect any public records that are for the time being in the possession or under the control of any Government office and give such instructions as to their safe preservation and such advice as to their efficient and economical administration and management as he considers necessary.

(2) Nothing in this section shall be deemed to authorise the Archivist to inspect the contents of any public records -

(a) which by any written law are forbidden to be communicated to him; or

(b) which are secret or confidential, except with the consent of the administrative head of the Government office having the custody thereof.

Return of public records in Government office.

10. Where the administrative head of the Government office by which any public record was deposited in the Archives, or the Administrative head of the successor of that Government office, satisfies the Archivist that the public record is required for use in that Government office, the Archivist shall return such public record to the custody of that Government office, satisfies the Archivist that the public record is required for use in that Government office, the Archivist shall return such public record to the custody of that Government office for such period as may be agreed upon between the Archivist and the Administrative head, and subject to such conditions as the Archivist may prescribe to ensure the safe custody and preservation of that public record during the time it is kept in that Government office.

Public records to be surrendered on demand.

11. Where any public record is in the custody or possession of any person other than a public officer or other person authorised to have such custody or possession in his official capacity, that person shall, on demand in writing by the Archivist, deposit that public record in the Archives office ~~or in such other Government office as the Archivist may direct.~~

Public records not to be destroyed or disposed of without the authority of the Archivist.

12(1) No person shall destroy or otherwise dispose of, or authorise the destruction or other disposal of, any public record of any kind whatsoever that is in his possession or under his control, except with the consent of the Archivist given in accordance with the provisions of this Act.

(2) Before authorising the destruction of any public record or any class thereof, the Archivist may, if he thinks fit, consult with any person whom the Archivist considers qualified to advise him as the value thereof for permanent preservation.

Routine destruction of public records.

13. The Archivist may authorise the immediate destruction, or the destruction after the expiration of such specified time as may be agreed upon between the Archivist and the administrative head of the Government office concerned, of any specified public records or classes of public records that -

(a) by reason of their number, kind or routine nature do not in his opinion possess any enduring value for preservation in the Archives office; and

(b) are not required for reference purposes in any Government office after action on them is completed, or after the expiration of such period of years from the date on which action on them is completed as may be agreed upon between the Archivist and the administrative head of the Government office concerned.

Access to public records to the Archives office.

14(1) Except as may be otherwise provided in any written law, and subject to the conditions under which any records are deposited, all records deposited in the Archives office shall be available for public reference subject to the provisions of any regulations made under this Act:

Provided that -

- (a) the Archivist may, for any good cause, withhold access to any specified public record or any specified class of public records in his custody subject to the right of the person so denied access to appeal to the Minister, whose decision thereon shall be final;
- (b) any public record deposited in the Archives office by any court and containing any information relating to the trial or punishment of any particular person may be inspected only by a person authorised in writing by the Chief Justice or by any other person authorised by the Chief Justice in that behalf.

(2) Nothing in this section contained shall limit the powers of any competent court to order the production of any public record of Kiribati.

(3) ~~Notwithstanding the other provisions of this section and subject to the provisions of paragraph (b) of subsection (1) of this section, the Minister may at any time, by order in writing addressed to the Archivist, withhold access either generally or by any person or class of persons to any specified public record or to any specified class of public records in the custody of the Archivist.~~

(4) Any person may, with the consent of the Archivist, make or cause to be made at his own expense copies of or extracts from any public archives which are available for public reference under this section.

Publication of public records.

15. On the recommendation of the Archivist, the Minister may authorise the publication of any public records deposited in the Archives office and available for public reference which he considers to be of sufficient interest to warrant their publication.

Copyright.

16(1) Nothing in this Act shall derogate from any provision of the law relating to copyright in relation to anything contained in any public records deposited in the Archives office under the provisions of this Act.

(2) Where any person publishes any work containing any passage from any public record deposited in the Archives office, he shall in that publication acknowledge the source from which that passage is taken.

PART IV -- MISCELLANEOUS PROVISION

Archives office seal.

17. The Archivist shall cause to be made a seal for the Archives office, with which all certified copies issuing out of the office shall be sealed.

Certified copies.

18. Any copy of any public record of Kiribati in the custody of the Archivist which is certified by the Archivist to be a true copy of such public record shall be received as evidence of the contents of such record in all courts of law within Kiribati.

Offences and penalties.

19(1) Any person who -

(a) wilfully or negligently damages any public records; or

(b) wilfully or negligently disposes of or destroys any public records otherwise than in accordance with the provisions of this Act; or

(c) contravenes any provisions of this Act,

commits an offence and he is liable on conviction to a fine of \$400 or to imprisonment for a term of 6 months or both.

(2) If any person is convicted of an offence under subsection (1) the court convicting such person may, in addition to any penalty imposed for the offence order that that person shall not be entitled to have access to the Archives office for such period as the court thinks fit.

Regulations.

20(1) Subject to the provisions of the preceding subsection, the Minister may, from time to time, make regulations for any purpose for which regulations are contemplated by this Act and all such other regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof and without limiting the generality of the foregoing, may make regulations -

(a) regulating the transfer of public records from any Government office to the Archives office or any record centre or other repository which may be established for the purposes of this Act;

- (b) regulating the manner of destruction or other disposal of valueless public records;
- (c) regulating the admission of the public to the Archives office and the use by the public of public records of Kiribati deposited in the Archives office;
- (d) providing for the custody and preservation of records deposited in the Archives office under section 4(2) of this Act, and prescribing the fees (if any) to be charged for that custody and preservation.

(2) The Chief Justice may make rules of court with regard to matters referred to in paragraph (a), (b) or (c) of the last preceding subsection in cases where the public documents concerned relate to proceedings in any court.


This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 9th August 1983, and is found by me to be a true and correctly printed copy of the said Bill.



.....
Clerk to the Maneaba ni
Maungatabu.

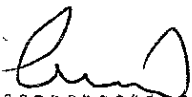
Published by exhibition -

- (a) at the Public Office of the Beretitenti on
15th August 1983.



.....
Secretary to the Cabinet.

- (b) at the Maneaba ni Maungatabu on
19th August 1983.



.....
Clerk to the Maneaba ni
Maungatabu.

PUBLIC RECORDS ACT 1983

EXPLANATORY MEMORANDUM

This Act has been enacted to provide statutory authority for the National Archives. Before their return to Kiribati in 1978, the archives were kept in Fiji, and since 1978 there has been no legislation here relating to archives. To remedy this the Act deals principally with the preservation of public records in the National Archives of Kiribati. All public records at least fifteen years old which the Archivist feels should be preserved, shall be kept in the National Archives. The Act contains provisions whereby lodgement of secret or confidential documents may be deferred or deposited subject to conditions.

The Act also provides for the appointment of the Archivist, and empowers the Minister to make regulations.

The Act is not comprehensive in scope and does not provide for compulsory deposit of, inter alia, books and films. Further legislation will be required in that regard.

R.L. Davey
Attorney General

LEGAL REPORT

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

R.L. Davey
Attorney General