

THE REPUBLIC OF KIRIBATI

Arrangement of Sections

PART I – PRELIMINARY MATTERS

1. Short Title
2. Commencement
3. Interpretation
4. Act binds the Republic

PART II – AIRPORT AUTHORITY KIRIBATI

5. Establishment of the Airport Kiribati Authority
6. Incorporation of the Airport Authority Kiribati Board
7. Custody of Airports
8. Board
9. Confidentiality
10. Personal Immunity

PART III – CHIEF EXECUTIVE OFFICE AND STAFF

11. Chief Executive Officer of the Authority

PART IV – FUNCTIONS OF THE AIRPORT AUTHORITY KIRIBATI

12. Airport Kiribati Authority functions
13. General powers of the Authority
14. Power to discontinue use of airports
15. Management of additional airport
16. Valuation of airports where use discontinued
17. Powers of Minister

PART V – AIRPORT AUTHORITY DEVELOPMENT FUND

18. Development fund
19. General duty to be financially prudent
20. Borrowing powers
21. Accounts and Audit

PART VI – PROCESS IN ACQUIRING LAND FOR AIRPORTS AND FOR CONNECTED PURPOSES

22. Process to acquire land compulsorily
23. Entering of land for survey purposes
24. Compensation for damages
25. Limitations of suits against Authority
26. Service of documents

PART VII – MISCELLANEOUS

28. Annual Report
29. Exemption from taxation
30. Offences by bodies, corporate or un-incorporate
31. Transfer of Authorities
32. Transitional provision

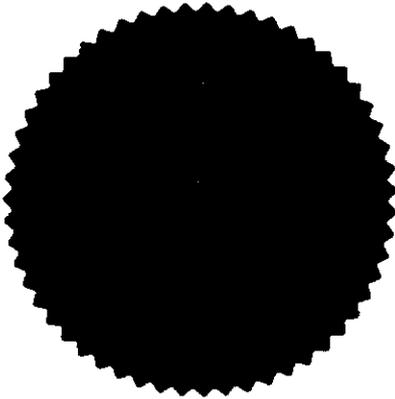
SCHEDULES

FIRST SCHEDULE: Staff Management

SECOND SCHEDULE: Board Proceedings

THE REPUBLIC OF KIRIBATI

(no. 2 of 2019)



I assent,

Beretitenti

15/4/2019

Commencement date:

2019

AN ACT

entitled

AN ACT TO PROVIDE FOR THE AIRPORT KIRIBATI AUTHORITY AND FOR
CONNECTED PURPOSES

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

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Airport Authority Act 2019.

2. Commencement

This Act commences on a date appointed by the Minister by notice.

3. Definitions

In this Act, unless the context otherwise requires —

“air navigation services” includes facilities, directions and information furnished, issued or provided for the purpose of or in connection with -

- (a) the navigation or movement of aircraft in the air or on the ground; or
- (b) the control or movement of vehicles in any part of an airport used for the movement of aircraft other than movement on the apron;

“airport” means an area on land or water (including any buildings, installations, and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft, and which is designated an airport under section 7;

“apron” means an area in an airport on land, intended to accommodate aircraft for the purposes of loading or unloading passengers, mail or cargo, fueling, parking, or maintenance of aircraft;

“authorised person” means a person authorised in writing by the Minister to exercise the particular power referred to in this Act where those words appear;

“Authority” means the Airport Kiribati Authority referred to in the Act as “AKA”;

“Board” means the Board of Directors of the Authority;

“Chief Executive Officer” means the CEO appointed by the Authority;

“CAAK” means the Civil Aviation Authority of Kiribati;

“financial year” means the 12 months starting from January and ending December each year;

“functions” includes responsibilities, powers and duties;

“funds” Airport Kiribati Authority development fund;

“ICAO” means the International Civil Aviation Organization established by the Convention on International Civil Aviation, signed in Chicago on the 7th December 1944;

“Minister” means the Minister responsible for Civil Aviation;

“Ministry” means the Ministry responsible for Civil Aviation;

“property” includes -

- (a) money, goods, things in action, land and every description of property, whether real or personal; 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);

“public officer” means a person in the permanent or temporary employment of the Government and State Owned Enterprises or SOE;

“restricted area” means an area of land or building under the control of the Authority to which public access is restricted; and

“vehicle” includes every type of wheeled or tracked vehicle capable of being driven, towed or pushed and includes animal drawn carts and carriages.

4. Act binds the Republic

This Act binds the Republic.

PART II – AIRPORT KIRIBATI AUTHORITY .

5. Establishment of the Airport Kiribati Authority (AKA)

There is hereby established a body to be known as the Airport Kiribati Authority (in this Act referred to as (“the AKA”).

6. Incorporation of the Authority

The AKA shall be a body corporate with perpetual succession and common seal and may sue or be sued in its corporate name and own, may enter into contracts, hold or dispose of property (whether movable or immovable).

7. Custody of airports

As from the appointed day, there shall be transferred to the AKA all airports maintained by the Ministry pursuant to laws governing Civil Aviation in Kiribati and the AKA shall maintain and manage those airports and any other airport provided by the Minister pursuant to those laws.

8. Board

(1) The AKA shall be governed by a Board of Directors, which shall consist of FIVE (5) members – a Chairperson, Vice Chairperson and three (3) members all appointed by the Minister.

(2) The Board of the AKA may invite a Chief Executive Officer to join Board meetings as a nonvoting member of the Board.

(3) Vacancies in the membership of the Board shall be filled in the same manner as the original appointment.

(4) Members of the Board shall be paid a sitting allowance at such rate endorsed by the Minister.

(5) Terms of office of Directors

(a) a member of the Board shall hold office for a period of four (4) years on such terms as may be specified in his letter of appointment and shall be eligible for re-appointment for one further period of four years; or

(b) if it appears to the Minister that a member of the Board should be removed on the grounds of misconduct, inability to perform the functions of his office or in the public interest, the Minister shall make a recommendation to that effect to the Chairman and if he approves such recommendation, the Minister shall declare, in writing, the office of that member vacant;

(c) any member, may resign his appointment by a letter addressed to the Minister;

(d) the supplementary provisions contained in the Second Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters mentioned therein;

(e) any member who does not attend three consecutive Board meetings, his/her appointment shall be revoked by the Minister.

(6) In the absence of the Board, the powers of the Board shall be vested in an interim board as prescribed in the second schedule of this Act.

(7) The Board may be considered absence if most members are removed, have their appointments revoked, resigned and if there is no quorum.

9. Confidentiality

(1) A person to whom this section applies is not to, either directly or indirectly –

(a) make a record of, or divulge or communicate to any person, any information concerning the affairs of another person; and relating to any matter, transaction or decision under or in connection with this or any other Act, that has been acquired by him by reason of his or her membership of the Board or of his or her functions in connection with this Act;

(b) produce to any person any document relating to the affairs of another person furnished for the purposes of this Act, unless in the performance of a function under or in connection with this Act or any other Act or as required by any other legal duty.

(2) This section applies to every person who is or has been a member of the Board.

(3) A person who contravenes any of the provisions of subsection (1) commits an offence and is liable upon conviction to imprisonment not exceeding 12 months or to a fine of \$1,000 or to both such fine and imprisonment.

10. Personal Immunity

No member of the Board is to be personally liable for any act done, or default made, by the Board or by a member thereof in good faith in the performance of his or her functions under this Act.

PART III – Chief Executive Officer and Staff

11. Chief Executive Officer and other staff

(1) Chief Executive Officer shall be appointed by the Board after consultation with the Minister. A Chief Executive Officer (CEO) of the AKA shall be responsible for:

- (a) the execution of the policies and the day-to-day running of the affairs of the AKA.
- (b) the day-to-day management of airports;
- (c) financial and operational matters relating to airports;
- (d) the overall safety and security of airport operations;
- (e) developing administrative and human resources development manuals for approval by the Board;
- (f) preparing regular financial and operational reports for the Board; and
- (g) implementing appropriate service standards.

(2) Subject to the approval of the Board, the CEO may employ, at such remuneration and on such terms and conditions as may be approved from time to time by the Board, such employees and engage under contract for services such professional, technical or other assistance, as the CEO considers necessary to carry out the functions of the AKA.

(3) Subject to this Act, the Board shall determine the executive, management and administrative structure of the AKA for the necessary and proper discharge of the functions of the AKA including, without limitation, the delegation of functions to directors, employees and sub-committees of the Board.

(4) The Chief Executive Officer shall also determine -

- (a) the professional qualifications and requirements of the employees of the AKA and persons under contracts for services with the AKA;
- (b) the terms and conditions of employment and contracts; and
- (c) disciplinary procedures (including a right of appeal to the Board) for employees of and for persons under contracts for services with the AKA.

(5) Subject to this Act the AKA may appoint such other persons as members of its staff as it considers necessary and may approve conditions of service for the staff.

PART IV – Functions of the Authority

12. Airport Kiribati Authority or AKA functions

(1) The AKA has the principal function of establishing, improving, maintaining, operating and managing airports including providing services and facilities which relates to the operation of any airport

(2) The functions of the AKA includes the following -

- (a) to plan, develop, redevelop, construct, administer, control and manage airports, and any other property vested in it under this Act;
- (b) to provide and maintain such runways, taxiways, aprons, terminals and other services and facilities, including associated lighting fixtures, as are in its opinion necessary or desirable for the efficient operation of airports or as the Minister or the Board may require;
- (c) to provide and control air navigation services;
- (d) to provide or make arrangements for the provision of rescue and firefighting equipment and services at airports, and to carry out regular drills and exercises and other checks of all security and safety equipment;
- (e) to provide or make arrangements for the provision of meteorological services to the CAA and to users of the airports;
- (f) to provide adequate facilities for the exercise of the regulatory powers of the Government, including customs, immigration, health and security checks, or by itself to exercise such regulatory powers of customs, immigration, health and security, with the concurrence of the Minister, so directs;
- (g) to collect prescribed or approved dues, rents, landing and parking fees and charges;
- (h) to ensure that the airports conform to the standards and recommended practices of the ICAO as adopted by Government of Kiribati and;
- (i) to provide and maintain such other services and facilities as are in its opinion necessary or desirable to meet the requirements of the travelling public, service providers, employees and other persons at airports.

(3) In the exercise of its functions, the AKA may -

- (a) construct, alter and maintain buildings at airports and elsewhere;
- (b) purchase or otherwise acquire land or buildings;
- (c) grant, on such terms and conditions as the AKA thinks fit, authority to carry on any trade or business at airports;
- (d) grant leases, sub-leases or other interests or concessions in respect of land or buildings within an airport in accordance with the laws of Kiribati and on such terms and conditions and subject to the payment of rent or other consideration as the AKA may think fit;
- (e) takes all necessary steps to prevent unlawful interference with navigational aids and facilities and communications systems located on airports; and
- (f) carry on such activities as appear to it advantageous, necessary or desirable for or in connection with the exercise and performance of its functions.

(4) In giving effect to subsections (1) and (2) the AKA shall -

(a) have regard to the development of air transport and to efficiency, economy and safety of operation; and

(b) take adequate measures for the protection and preservation of the environment, and to prevent or deal with noise, vibration, pollution or any other disturbance attributable to aircraft used for the purpose of civil aviation.

(5) The AKA shall issue to the Chief Executive Officer, policy directions with respect to any matters for which the Chief Executive Officer has responsibility under this Act.

(6) The AKA shall, annually, prepare a report of its activities during the preceding year, and such report shall be tabled in Parliament.

13. General powers of the Authority

The AKA may exercise all the powers that are provided for in this Act and any other Act, and have powers to do all acts and things which are reasonably necessary or expedient to enable it to carry out its functions, roles and responsibilities.

14. Power to discontinue use of airport

The AKA shall not without the consent of the Minister discontinue the use of any airport maintained by it pursuant to this Act.

15. Management of additional airport

Without prejudice to section 7, the AKA may assume the management of any airport in addition to those transferred to it under this Act.

16. Valuation of airport where use discontinued

Where the use of an airport is discontinued pursuant to section 13, the AKA shall submit a valuation of the airport to the Government who shall cause compensation to be made to the AKA accordingly.

17. Powers of Minister

(1). Notwithstanding any other provision of this Act, the Minister may give to the AKA directions to undertake an activity which has power to do or refrain from such an activity if the Minister considers it appropriate to give such directions:-

(a) in the interest of national security; or

(b) in any matter appearing to the Minister to affect the relations of the Republic with a country or territory outside or

(c) to discharge or facilitate the discharge of an obligation binding on the Republic by its being a member of an international organisation or a party to an international agreement; or

(d) to attain or facilitate the attainment of any other object the attainment of which is in the opinion of the Minister appropriate in view of the fact that the Republic is a member of an international organisation or a party to an international agreement; or

(e) to enable the Republic become a member of an international organisation or a party to an international agreement;

(f) in order to prevent or deal with noise, vibration, pollution or other disturbance attributable to aircraft used for the purpose of civil aviation and in so far as any directions given in pursuance of this paragraph conflict with the requirements of any enactment or instrument relating to the AKA except in time of war, whether actual or imminent, or of great national emergency, those requirements shall be disregarded;

(g) to ensure the AKA provides minimum service standards; or

(h) in the national interest;

(2). The Minister may make rules and regulations deemed necessary for the better carrying into effect of this Act.

PART V - AIRPORT KIRIBATI AUTHORITY DEVELOPMENT FUND

18. Development Fund

(1) There is hereby established a Fund which shall be referred to as the Airport Kiribati Authority Development Fund to support the functions and operations of the AKA.

(2) There shall be paid into this Fund:

(a) Any money appropriated by the Government of Kiribati for the purposes of this Act;

(b) fees in respect of services provided by the Authority should be approved by the Minister, including-

(i) landing fees;

(ii) parking fees;

(iii) passengers service charge (local and international);

(iv) rents;

(v) concession fees;

(vi) CIP lounge charges;

(vii) utilities;

(viii) fuel charge;

(ix) port charge;

(x) Frontier service charge;

(xi) sales of information;

- (xii) contract registration fees;
- (xiii) rental of warehouse;
- (xiv) rental of plant and equipment;
- (xv) car park charges; and
- (xvi) boarding bridge charges;

(c) all other sums that may accrue to or as may be received by the Authority in the exercise of its functions and activities under this Act.

(3) The moneys comprising the fund of the AKA shall in each year be applied by it in defraying the following expenses, that is:

- (a) the working and establishment expenses and expenditure on, or provision for, the maintenance and renewal of any of the undertakings of the AKA;
- (b) the interest on any loan raised by the AKA;
- (c) the sums required to be transferred to a sinking fund or otherwise set aside to making provision for the payment of any other borrowed money;
- (d) the remuneration, fees and allowances of the members of the Board and for reimbursing members of the Board or of any committees set up by the Board and for such expenses as may be authorised by the Board in accordance with such rates as may, from time to time, be approved by the Government;
- (e) the salaries, fees, remuneration, pensions, superannuation allowances and gratuities of the employees, agents and other persons acting under or for the AKA; and
- (f) any other expenses connected with the discharge of the functions of the AKA under this Act or any other enactment.

(4) The AKA shall commit 30 percent of its total revenue to the Civil Aviation Authority of Kiribati annually, which form part of their Special Fund.

(5) The AKA shall submit annually to the Minister estimates of its revenue and expenditure in respect of the next following year.

19. General duty to be financially prudent

(1) It shall be the duty of the AKA so to conduct its affairs as to ensure that its revenue (including any grant made to it by the Government) is not less than sufficient to meet charges properly chargeable to revenue account, taking one year with another.

(2) It shall generally be the AKA's financial objective to recover the whole of its costs and to achieve a reasonable return on capital.

20. Borrowing powers

(1) Subject to the other provisions of this section, the AKA may, from time to time, borrow by overdraft or otherwise howsoever, such sums as it may require in the exercise of its functions under this Act.

(2) The AKA shall not, without prior approval of the Minister, borrow any sum of money whereby the amount in aggregate outstanding on any loan or loans at any time exceeds such amount as is for the time being specified by the Government.

21. Accounts and audit

(1) The AKA shall keep proper accounts and proper records in relation thereto and shall prepare in respect of each financial year a statement of accounts in such form as the Minister may direct, in a form which shall conform to the best commercial standards.

(2) The AKA shall within six months after the end of each year to which the accounts relate caused its accounts to be audited by auditors appointed from the list of auditors and in accordance with guidelines outlined in the *Kiribati Audit Act of 2017*.

(3) The auditors shall, on the completion of the audit of the accounts of the AKA for each year, prepare and submit to the Board reports setting out-

(a) general observations and recommendations of the auditors on the financial affairs of the AKA for the year and on any important matters which the auditors desire to bring to the notice of the AKA; and

(b) detailed observations and recommendations of the auditors on all aspects of the operations of the AKA for that year.

(4) A person who hinders or obstructs the auditor in the carrying out of his duties under this Act, commits an offence and is liable upon conviction to a fine not exceeding \$100 or to imprisonment of 3 months, or both.

PART VI -- Process in acquiring land for airports and for connected purposes

22. Acquiring of land compulsorily

(1) When there is any hindrance to the acquisition by the AKA of any land required for any purpose of the AKA under this Act by agreement or negotiation (including any failure by the AKA to reach agreement as to the amount to be paid in respect of the acquisition), the Minister, on the application of the AKA may take up such request to the Cabinet for their appropriate actions in compliance with the *State Acquisition of Lands 1954*.

(2) Where a declaration is made under subsection (1) of this section, the land to which the declaration relates shall be deemed to be land required for a public purpose of the Government within the meaning of the *State Acquisition of Lands 1954* for acquiring the land for the Government.

(3) Where a declaration has been made under subsection (1) of this section in respect of any land the AKA shall follow the process of declaration specified in of the *State Acquisition of Lands 1954*.

(4) The compensation if any, payable under the *State Acquisition of Lands 1954* for the acquisition of any land under this section or, payable under the appropriate law for the revocation of any rights relating to the land shall be paid by the Government.

23. Entering of land for survey purposes

(1) Subject to this section, the AKA in cooperation with the Lands Department within the Ministry responsible for Lands may by their officers or agents with all necessary workmen and other staff enter from time to time on any land for the purpose of the discharge of the AKA's functions under this Act and pursuant to the *State Acquisition of Lands 1954*, and may enter upon any such land for the purpose of-

- (a) the survey and taking of levels in connection with any such survey;
- (b) the construction, placing, maintenance, examination, repair, alteration or removal of any beacon for the purposes of any survey as aforementioned;
- (c) the cutting and removal of such trees and underwood as may interfere with such surveys.

(2) The AKA shall, when practicable, serve on the occupier of any land on which it intends to enter pursuant to subsection (1) of this section, a notice which shall be in writing giving a description of the nature of the works intended to be carried out on the land.

(3) In the discharge of its functions pursuant to subsection (1) of this section, the officers, agents, workmen and servants referred to therein may remain on any such land for such reasonable time as may enable them to execute and do all such work and things as may be necessary.

(4) The AKA shall not construct, place, maintain, examine, repair, alter or remove any beacon in or upon any land, road, building, embankment, dock, harbour or pier under the control of a department of government or other public authority without prior approval of the head of the department concerned or of any such public authority.

(5) Any beacon placed on any road shall be placed so as not to hinder or interfere with free passage along such road, and the AKA shall make good any road opened or broken up for the purposes of this section.

(6) For the avoidance of doubt, it is hereby declared that the powers conferred on the AKA under this section are in addition to and not in derogation of the powers conferred on the Minister, pursuant to laws governing Civil Aviation in Kiribati.

24. Compensation for damages.

(1) In the exercise of the powers conferred by section 22 of this Act, the AKA, its officers, servants and agents shall do as little damage as may be, and the AKA shall pay compensation for any damage done to any buildings, crops, and/or economic trees.

(2) In the case of dispute as to the amount of compensation payable the same shall be determined by a Court of law as the case may require, and such decision shall be final and binding.

25. Limitations of suits against AKA.

(1) Notwithstanding anything in any other enactment, no suit against the AKA or a member or any employee of the AKA for any act done in pursuance or execution of any enactment or law, or of any public duties or authority, or in respect of any alleged neglect or default in

executing such enactment or law, duties or authority shall lie or be instituted in any court unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury, within twelve months next after the ceasing thereof.

(2) No suit shall commence against the AKA before the expiration of a period of three months after written notice of intention to commence the suit shall have been served upon the AKA by the intending plaintiff or his agent; and the notice shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

26. Service of documents

The notice referred to in section 23 (2) of this Act and any summons, notice or other document required or authorised to be served upon the AKA under the provisions of this Act or any other law shall be served by delivering the same to the office of the CEO of the AKA, or by sending it by registered post addressed to the CEO at the principal office of the AKA.

PART VII - Miscellaneous

27. Rules for effective discharging of functions of the AKA

(1) The AKA may, with the approval of the Minister make rules in respect of any of its functions under this Act such rules must be consistent with rules made under laws governing Civil Aviation in Kiribati. Without prejudice to the generality of the foregoing, rules may be made-

- (a) for securing the safety of aircraft, vehicles and persons using the airport and preventing danger to the public arising from the use and operation of the airport;
- (b) for preventing obstruction within the airport;
- (c) for regulating vehicular traffic anywhere within the airport except on roads therein to which the road traffic enactments apply, and (with that exception) for imposing speed limits on vehicles therein and for restricting or regulating the parking of vehicles or their use for any purpose or in any manner specified in the bye-laws;
- (d) for prohibiting waiting by taxicabs except at standing appointed by the AKA;
- (e) for prohibiting or restricting access to any part of the airport;
- (f) for preserving order within the airport and preventing damage to property therein;
- (g) for regulating or restricting advertising within the airport;
- (h) for requiring any person, if so requested by an officer of the AKA or by a police officer, to leave the airport or any part of it;
- (i) for the arrest, investigation and prosecution of persons found loitering, wandering or touting at the airports, subject only to such guidelines and clearance from the Attorney-General;

- (j) for the screening of passengers at the airports;
 - (k) prohibiting or restricting the access of members of the public or of any class of members of the public to any premises vested in, occupied by or under the control of the AKA;
 - (l) regulating the hours during which, the means whereby, the purposes for which and the conditions subject to which members of the public may have access to or egress from any such premises or portion thereof;
 - (m) ensuring the maintenance of good order and discipline amongst the members of the public at any time when upon any such premises;
 - (n) prohibiting or restricting the use of land over, underneath or near which or over waters where the Authority has any installation and for preventing the unauthorised or improper use of or wilful or negligent acts occasioning injury to any property owned, vested in, occupied by or under the control of the Authority.
- (2) All rules shall be in writing and shall come into force when approved by the Minister and sealed with the seal of the AKA unless some other later date for commencement be therein prescribed.
- (3) Rules made under this section need not be published in the gazette but the AKA shall bring them to the notice of such affected or interested persons in such manner (in addition to that prescribed in subsection 4 of this section) as it may, from time to time, determine.
- (4) A copy of such rules, when approved, shall be printed and deposited at the offices of the AKA at each airport to which the rules relate and shall at all reasonable hours be open to public inspection without payment.
- (5) Rules made under this section may provide that for the contravention of such rules there may be imposed on the conviction of any person for any such contravention a fine or imprisonment.
- (6) For the purposes of this section, members and employees of the AKA shall not be deemed to be members of the public whilst on duty or at the time they are officially working.
- (7) In this section "premises" includes lands, plants and ancillary works.

28. Annual report

- (1) The AKA shall, not later than six months after the end of each year, make a report to the Minister on the performance of its functions under this Act during the preceding year.
- (2) The report for any year shall-
- (a) set out any direction given to the AKA under section 8 of this Act during the year, unless the Minister has notified the AKA that in his opinion it is against the national interest to do so; and
 - (b) includes such information relating to the plans, past and present activities of the AKA as the Minister may, from time to time direct.

(3) There shall be attached to the report for each year a copy of the statement of accounts in respect of that year and a copy of the Auditor's report thereon.

(4) The AKA shall, in addition to the information to be given under the foregoing provisions of this section, furnish in the report such returns or other information relating to the property, financial position and activities of the AKA as the Minister may, from time to time, direct.

29. Exemption from taxation

The income, property and transactions of the AKA shall not be subject to any tax, rate, charge or impost under any other law except charges levied under the laws governing Civil Aviation in Kiribati.

30. Offences by bodies, corporate or un-incorporate

Where an offence under this Act is committed by a body corporate or a firm or association of individuals-

- (a) every director, manager, secretary or other similar officers of the body corporate;
- (b) every partner or officer of the firm;
- (c) every person concerned in the management of the affairs of the association;
- (d) every person who was purporting to act in any such capacity aforesaid,

shall severally be guilty of the offence and liable on conviction to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance; and

- (e) every offence shall be determined at the High Court.

31. Transfer of Authorities

(1) On the commencement of this Act, all the "Air Navigation services" (except at the demand of the Minister) will be part of the Authority including the functions and employees, fund, assets and liabilities for services.

(2) For the purposes of the transfer effected by subsection (1) of this section, the provisions of any contract or instrument connected therewith, shall be read and construed with such modifications (including additions, alterations, omissions or repeals) as would bring them into conformity with the general intendment of this Act.

(3) For the purpose of the transfer effected by subsection (1) of this section, the provisions of the laws governing Civil Aviation in Kiribati or any other enactment concerned with or relating to civil aviation (including subsidiary instrument) made thereunder shall be modified to the extent as would bring it into conformity with the general intendment of this Act.

(4) Without prejudice to the generality of subsection (2) of this section, the provisions of any laws governing Civil Aviation in Kiribati shall be modified accordingly.

32. Transitional provisions

- (1) The Directors of the Authority holding office at the time of commencement of this Act shall continue to hold office as Director as if appointed under this Act.
- (2) The Airport Manager of the Authority and other staff holding office at the time of commencement of this Act continues to hold office as Airport Manager and existing staff or office holders as if appointed under this Act.

SCHEDULES

FIRST SCHEDULE

Staff management

1. On the commencement of this Act, the Authority shall retain such persons employed or staff of the former Airport Services transferred by this Act to the Authority
2. Any staff of the former Airport Services who fails within one month of the former Airport Services to report for duty at his duty post as designated by the management of the Authority shall be deemed to have abandoned his duty post.
3. (1) As from the commencement of this Act-
 - (a) the rights, interests, obligations and liabilities of the former Airport Services existing immediately before the commencement of this Act under any contract or instrument, or in law or in equity apart from contract or instrument, shall by this Act be assigned to and vested in the Authority;
 - (b) any such contract or instrument as is mentioned in sub-paragraph (a) of this paragraph, shall be of the same force and effect against or in favour of the Authority and shall be enforceable as fully and effectively as if instead of the former Airport Services the Authority had been named therein or had been a party thereto; or
 - (c) any proceeding or cause of action pending or existing, or which could have been taken by or against the former Airport Services, immediately before the commencement of this Act in respect of any rights, interest, obligation or liability of the former Airport Services may be commenced, continued or enforced or taken by or against the Authority.
- (2) Within the twelve months next after the enter in force of this Act, the Minister, if he thinks fit, may by order published in the official journal, make additional transitional and savings provisions for the better carrying out of the objectives of this Schedule.

SECOND SCHEDULE

Board proceedings

1. Subject to this Act, the Board may make standing orders regulating the proceedings of the Board or any committees thereof.

2. Every meeting of the Board shall be presided over by the chairman or if the chairman is unable to attend a meeting, the Vice Chairman shall chair the meeting..

3. The quorum at a meeting of the Board shall be four.

4. Where upon any special occasion the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt that person to be a member for as many meetings as necessary and that person while so co-opted shall have all the rights and privileges of a member except that he shall not be entitled to vote, nor shall he be counted towards a quorum.

5. An interim board within the meaning of section 8 (6) of this Act shall comprise the following-

- (a) the Minister as Chairman;
- (b) the Secretary of the Ministry; and
- (c) Director of Civil Aviation

Committees

6. (1) Subject to its standing orders, the Board may appoint such number of standing and ad hoc committees as it thinks fit to consider and report on any matter with which the Board is concerned.

(2) Every committee appointed under sub-paragraph (1) of this paragraph shall be presided over by a member of the Board and shall be made up of such number of persons, not necessarily members of the Board, as the Board may determine in each case.

(3) The quorum of any committee set by the Board shall be as may be determined by the Board.

7. (1) Where standing orders made pursuant to paragraph 6 (1) of this Schedule provide for a committee of the Board to consist or co-opt persons who are not members of the Board the committee may advise the Board on any matter referred to it by the Board.

(2) The decision of a committee shall be of no effect until it is confirmed by the Board.

Miscellaneous

8. The fixing of the seal of the Authority shall be authenticated by the signature of the chairman or of some other member authorised generally or specially by the Board to act for that purpose.

9. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Authority by the Chief Executive Officer or by any other person authorised generally or specially to act for that purpose by the Board.

10. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Authority shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been signed or sealed.

11. The validity of any proceedings of the Board or of a committee thereof shall not be affected by-

- (a) any vacancy in the membership of the Board or committee thereof; or
- (b) any defect in the appointment of a member of the Board or any committee thereof; or
- (c) any reason that a person not entitled to do so took part in the proceedings.

12. Members of the Authority who are public officers, shall cease to be members of the Authority upon ceasing to hold the office entitling them to appointment to the Authority.

13. A member of the Board who has any interest in any air transport undertaking or other concern which the Authority proposes to license or with which the Authority proposes to make any contract or arrangement shall disclose to the Board the fact of such interest and the nature of the interest and such disclosure shall be recorded in the minutes of the Board, and such members shall take no part in any deliberation or decision of the Board relating to any such proposal.

Explanatory Memorandum

The Airport Authority Act 2018 is a new legislation establish to administer, control, improve and maintain the operation and management of airports which are under the Airport Authority. Further the Authority is also responsible for maintaining and improving the services and activities done in and around airports and for properties vested in it by this Act. Previously the Airport is controlled under the Civil Aviation Act 2004 but this does not give specific powers and functions to the Airport Authority. The powers and functions of the Authority do not interfere with the powers of the Minister and Director of Civil Aviation under the Civil Aviation Act of 2004.

The Act has seven (7) parts with 32 sections and two (2) schedules. Part 1 contains the preliminary parts including the short title, commencement date and interpretation section. Section 4 makes the Act binding on the Republic.

Part II provides for the establishment of the Airport Kiribati Authority or the AKA, which is a body corporate with perpetual succession with a seal and can sue in its own name. As normal there is a board to govern the operations of the Authority. Section 7 gives the Authority the custody of all airports in Kiribati. Section 9 provides for the confidentiality issue and makes it an offence if any member past or present reveals any confidential issues. A personal immunity is provided in section 10 and protects Board members from any liability provided they perform their duty in good faith.

Part III has only section which section 11. It provides for the Appointment of the Chief Executive Office and Staff. The CEO and staff are appointed to assist the Board and the Authority to carry out functions and powers stated in the Act.

Part IV provides for the functions and powers of the Authority. The major role of the Authority is to manage, administer, improve and maintain all airports. In this part at section 17 the powers of the Minister are also listed including directions to the Authority.

Part V provides for the Authority Development Fund which is now appearing in recent Acts to provide for funds in maintaining the airport and other properties vested in it and to be financially viable for the operation of the Authority. Section 20 gives the Authority the power to borrow should the funds be insufficient. However the funds shall be audited as required under the *Kiribati Audit Act 2017*. With the concept of maintaining airports and properties feasibilities the Fund is established to ensure that airports and other properties are maintained throughout.

Part VI deals with the process in acquiring lands for airports and connected purposes. The process is similar with that provided in the *State Acquisition of Lands 1954*. It should be noted that the power to acquire land remains with the Minister responsible for Lands but the Authority is reminded that should they need more lands for Airports and other related matters they need to go through this process.

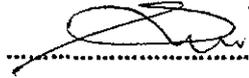
Part VII deals with miscellaneous and it provides for the annual report, exemptions from tax, offences by bodies, transfer of authorities from the previous airport services and the transitional provision.

The two Schedules deals with Staff Management and Board Proceedings.

Honourable Willie Tokataake
Minister for Information, Communication, Transport and Tourism Development

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression of the Airport Authority Act has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 2nd April 2019 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 ¹⁵ day of April 2019.



Eni Tekanene

Clerk of the Maneaba ni Maungatabu