

THE REPUBLIC OF KIRIBATI  
(No. 2 of 1990)

I assent,

*U. Tabai*  
Beretitenti.  
17/7/1990

AN ACT TO RE-ENACT WITH MINOR AMENDMENTS THE EXISTING  
PROVISIONS RELATING TO THE DECLARATION OF CLOSED  
DISTRICTS: AND FOR CONNECTED PURPOSES.

Commencement:  
1990

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

- Short title 1. This Act may be cited as the Closed Districts Act 1990.
- Interpretation 2(1) In this Act, unless the context otherwise requires -  
"closed district" means any place, islands, island or part  
of an island declared to be a closed district under  
section 3;  
"licence" means a licence granted under the provisions of  
this Act and "licensee" means a person holding a  
licence which has not expired and has not been revoked.  
"Maneaba" means the "Maneaba ni Maungatabu".  
(2) For the purposes of the Interpretation and General  
Clauses Ordinance (Cap. 46) the section headings in this Act  
shall be deemed to be marginal notes.
- Power to  
declare closed  
districts 3(1) Subject to sections 14 and 119(4) of the Constitution  
and for a reason set out in section 14(3)(b) of the Constitution,  
the Beretitenti, acting in accordance with the advice of the  
Cabinet, may by notice declare any islands, island or part of  
an island to be a closed district.  
(2) Any declaration made under subsection (1) shall be laid  
before the Maneaba within forty eight hours of the day on which  
the next meeting of the Maneaba commences.
- Entry into  
closed district  
prohibited 4. No person shall enter a closed district except -  
(a) natives of the closed district or persons who are  
ordinarily resident in such closed district;

- (b) Government officers or persons acting under the orders of the Government in the course of their duty; and
- (c) licensees.

Licence to enter closed district

5.(1) The Minister may grant or renew a licence to enter a closed district and may if he thinks fit prescribe conditions, which shall be endorsed on the licence, upon which such licence is granted or renewed and may also as a condition precedent to the grant or renewal of a licence, require the proposed licensee to furnish security either in cash or by bond for the observance of the conditions.

(2) Any conditions prescribed under subsection (1) shall be laid before the Maneaba within forty eight hours of the day on which the next meeting of the Maneaba commences.

Revocation of licence

6(1) The Minister may at any time revoke a licence.

(2) Notice of revocation shall be given in writing to the licensee and shall be served personally or by registered post.

(3) Such revocation shall take effect from the date of receipt of such notice by the licensee or from such later date as the Minister may by such notice prescribe.

Penalty for entering, etc., without a licence

7. Any person who -

- (a) enters a closed district without a licence; or
- (b) remains in a closed district after the expiry of revocation of his licence,

commits an offence under this Act and, in addition to any other penalty, shall be liable to repay any expenses incurred by the Government as a result of any action taken in connection with such offence.

Offences by licensees

8. Any licensee who -

- (a) commits a breach of the conditions endorsed upon his licence;
- (b) does any act calculated to disturb the peace of a closed district;
- (c) does any act calculated to cause persons lawfully within or living or residing in a closed district to be disaffected towards the Government,

commits an offence under this Act and, in addition to any other penalty, shall be liable to forfeit any security furnished by him.

Recovery of expenses from licensee

9. The Minister may recover from a licensee any expenditure incurred by the Government in rendering him assistance and shall be entitled to recover the amount of such expenditure out of any security furnished by him.

Penalty for  
offence

10. A person who commits an offence under this Act shall be liable on summary conviction to a fine not exceeding \$1000 and the costs of the prosecution, and in default of payment to imprisonment for a term not exceeding 2 years.

Power to make  
regulations

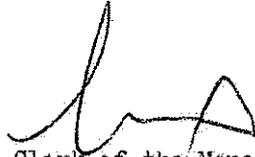
11. The Beretitenti, acting in accordance with the advice of the Cabinet, may make regulations with regard to the following matters and generally for the purpose of carrying this Act into effect -

- (a) the officers or classes of officers by whom, and the manner in which, the powers conferred by this Act shall be carried out;
- (b) the form and period of validity of licences;
- (c) the conditions under which licences shall be granted;
- (d) the security to be furnished by licensees; and
- (e) the fees to be paid in respect of the grant or renewal of a licence.

Repeal

12. The Closed Districts Ordinance (Cap. 9) as amended by Schedule 3 to the Constitution (Laws Adaptation) Order 1980 and any Regulations made thereunder are hereby repealed.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 21st May, 1990 and is found by me to be a true and correctly printed copy of the said Bill.



Clerk of the Maneaba ni  
Maungatabu.

I certify that the above Act, was on the 21st May, 1990, passed by the Maneaba ni Maungatabu on a Certificate of Urgency under section 68(3)(a) of the Constitution.



Speaker

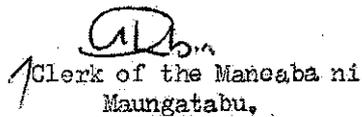
Published by exhibition -

(a) at the Public Office of the Beretitenti this  
17<sup>th</sup> day of July 1990.



Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu this  
17<sup>th</sup> day of July 1990.



Clerk of the Maneaba ni  
Maungatabu.

CLOSED DISTRICTS ACT 1990

EXPLANATORY MEMORANDUM

This short Act seeks to re-enact, with some minor modifications, the existing Closed Districts Ordinance (Cap. 9) as amended by Schedule 3 to the Constitution (Laws Adaptation) Order 1980.

The Closed Districts Ordinance (Cap. 9) has been on the statute books of Kiribati since 1936, the year in which it was enacted.

On the coming into operation of the Constitution on 12 July 1979, however, that Ordinance, as it then stood, appeared to have lost its constitutional validity because it became incompatible with section 14 of the new Constitution.

However, the constitutional defect appeared to have been cured in 1980, following the promulgation of the Constitution (Laws Adaptation) Order 1980.

Schedule 3 to this Constitutional (Laws Adaptation) Order 1980 amended section 3 of Cap. 9 by vesting the power to declare Closed Districts in the Beretitenti, acting in accordance with the advice of the Cabinet, but subject to section 14 of the Constitution. The said power can also only be exercised "for a reason set out in subsection 14(3)(b) of the Constitution". Section 11 of Cap. 9 was also amended by the substitution of "the Beretitenti acting in accordance with the advice of the Cabinet" as the authority to make Regulations under the Cap. 9.

In other words, since 1980, it became constitutionally, valid or in order for the Beretitenti, acting in accordance with the advice of the Cabinet, to declare any islands, island or part of an island to be a closed district so long as the reason for the declaration has its source from section 14(3)(b) of the Constitution, (i.e. the restriction imposed by the declaration of the Closed District is "... reasonably required in the interests of defence, public safety, public order, public morality, public health, environmental conservation or in fulfilment of the international treaty obligations of Kiribati").

The main purpose of this Act is therefore to put the existing legal position with regard to the declaration of Closed Districts on a clearer footing.

It is sought to achieve this by incorporating the amendments effected in 1980 by Schedule 3 to the Constitution (Laws Adaptation) Order 1980 into the existing provisions of Cap. 9 and re-enacting them with some minor modifications.

The minor modifications are contained in -

- (i) Section 4(a) of the Act where "persons who are ordinarily resident in such closed district" has been added to "natives" as among the persons who are exempted from the prohibitions of a closed district; and

- (ii) Sections 7, 8 and 9 where there have been a few structural and cosmetic changes not affecting substance and meaning.

Furthermore, in recognition of the "inalienable right to enter and reside in Banaba" conferred on every Banaban by the Constitution (section 119(4)), the Act expressly subjects the power to declare a closed district to the said right of Banabans. In other words, any declaration of Banaba as a closed district shall not affect the right of every Banaban to enter and reside or live on Banaba without hindrance.

Michael N. Takabwebe  
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 Baretitenti may properly assent to the Act.

Michael N. Takabwebe  
Attorney General  
24th May, 1990.