

REPUBLIC OF KIRIBATI



(No..... of 2024)



I assent,

A handwritten signature in black ink, written over a horizontal dotted line.

Beretitenti

4/6/2024

An Act

entitled

AN ACT TO AMEND THE ELECTION ACT AND OTHER RELATED MATTERS

Commencement date:

.....2024

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

1. Short title

This Act may be cited as the *Election (Amendment) Act 2024*.

2. Meaning of the 'Principal Act'

In this Act, the Principal Act means the *Election Act 2019*.

3. Amendment of section 3

Section 3 is amended as follows:

- (1) By replacing the definition of 'agent' with "subordinate staff" immediately after the definition of 'resident' to read as follows:

"subordinate staff" includes a person who is employed by:

- a. State Owned Enterprises;
- b. Non-Government's Organisation or NGOs and
- c. anyone engaged in any project either on a contract or full time basis.

- (2) By inserting a new definition of "disability" between the word 'Court' and 'during an election' to read as follows:

"Disability" means any person who is physically impaired that limits a person's movements, senses, or activities, or a person who is illiterate, excluding a person with a mental condition proved by an authorized medical practitioner.

4. Amendment of section 8

Section 8 is amended as follows:

- (1) By repealing the whole subsection (1) and substituted with:

"There shall be a Chief Electoral Officer who shall be appointed by notice by the Minister in consultation with Cabinet and who shall have and exercise, subject to any directions of the Electoral Commission under the powers conferred by section 63(1) of the Constitution, the powers conferred on him or her by or under this Act.

- (2) By repealing subsection (2) and substituted with:

- (a) "The Chief Electoral Officer shall elect the Island Council Clerk or the Acting Clerk in the absence of the Clerk to be an Electoral Officer for each electoral district who shall appoint fit and proper persons to be Assistant Electoral officers.
- (b) The appointment of Assistant Electoral Officers will be made in consultation with the Chief Electoral Officer.
- (c) In addition to the appointment, the Assistant Electoral Officers shall perform all the powers and functions of the Electoral Officer subject to the direction of the Chief Electoral Officer."

5. Amendment of section 15

Section 15 (3a) is repealed and substituted as follows:

"within which he resides at the time of registration, and subject to section 16(2) has been living thereat for a period of not less than one month provided this section shall

not apply to Members of the Maneaba ni Maungatabu who has an official duty away from their home-island, required under the Constitution”

6. Amendment of section 20

Section 20 is amended as follows:

- (1) In paragraph (a) by replacing the words ‘7 years’ with “5 years”.
- (2) In paragraph (b) by adding the phrase, “who shall resign from his position, fifteen working days after dissolution of the Parliament” immediately after the word ‘government’ at the end of the paragraph.
- (3) By inserting a new section 20A

“20A Qualification of Subordinate Staff

A subordinate staff must resign from his or her position when he or she runs for election fifteen working days after the dissolution of the Parliament.”

7. Insertion of a new section 26A

Section 26A is inserted immediately after section 26 and to read as follows:

Section 26A. Election Procedure for Disabilities

“26A (1) The Electoral Officer is responsible to provide an accessible polling place for people with disabilities.

(2) The Electoral Officer must provide to any person with disability who is entitled to be registered a friendly polling place including the following-

- (a) visiting them for registration and voting;
- (b) affords priority during the polling by not joining the queue;
- (c) allow any person (of their choice) to lead them into the polling booth to cast their vote; and
- (d) if necessary, provide a wheelchair at a polling place”.

8. Insertion of a new section 27A.

Section 27A is inserted immediately after section 27 and to read as follows:

Foreign Aid

“27A (1) Distribution of foreign aid whether in cash or in kind shall be considered as a corrupt practice on and after the day the election notice is published except for the distribution of foreign aid relating to the government’s ongoing projects and service delivery.

(2) For the purpose of this section, 'foreign aid' means any aid provided by the foreign donors to any person in Kiribati for any purposes including a development assistance from a foreign government in the form of gifts, grants or loans."

9. Amendment of section 31

Section 31 is amended by replacing the figure '\$200' with "\$500" and replacing the words '6 months' with "1 year".

10. Amendment of section 32

Section 32 is amended as follows-

(1) Paragraph (a) is repealed and substituted as follows:

"(a) every person, on a day and after the election notice is published, who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavor to procure any money or valuable consideration to or for any elector or to or for any person on behalf of any elector, or to or for any other person; and"

(2) Paragraph (b) is repealed and substituted as follows:

"(b) every person, on a day and after the election notice is published, who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure or to endeavor to procure, any office, place or employment to or for any elector, or to or for any other person; and

(3) Paragraph (c) is repealed and substituted as follows:

"(c) every person, on a day and after the election notice is published, who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person; and"

(4) A new proviso is inserted at the end of section 32 as follows:

"For the purpose of this section, 'valuable consideration' includes kava either in a form of a drink or powder."

11. Amendment of section 36

Section 36 is amended by replacing the words, 'to a fine of \$50' with "to a maximum fine of \$500" and replacing the words, 'imprisonment for 3 months' with the words "a maximum imprisonment of 1 year".

12. Insertion of a new section 49A

Section 49A is inserted immediately after section 49 to be read as follows:

49A. Guideline for Manifestos

- (1) "The Chief Electoral Officer, under the direction of the Electoral Commission, shall provide a guideline for manifestos intended to be implemented by the candidate for Beretitenti, and the manifestos shall be published in the government's gazette, a working day after it is submitted, provided that the manifestos, once published, shall not be altered by all means."
- (2) The manifestos could be changed after each term of the Beretitenti.
- (3) The manifestos stated in subsection (1) shall be submitted to the Electoral Commission ten working days after the declaration of the candidates' names for the Beretitenti.
- (4) If subsection (1) or (3) is contravened, a candidate who shall run for the Beretitenti election shall be disqualified from that election.

EXPLANATORY MEMORANDUM

The Election (Amendment) Act 2024 aims to improve certain provisions and adjusts the disparities in the existing Principal Act and to remedy the inconsistencies. The Act has 11 amendments all together.

Section 3 of the Bill amends section 3 of the Principal Act and add new definitions of subordinate staffs and disability.

Section 4 of the Bill amends section 8(1) & (2) of the Principal Act by repealing the phrase ‘subject to section 99 of the Constitution’ and the appointment of a Chief Electoral Officer is vested in the responsible Minister in consultation with Cabinet. The Chief Electoral Officer is given power to appoint Assistant Electoral Officers.

Section 5 of the Bill amends section 15 subsection 3(a) by clarifying the clause of qualification of elector in terms of registration that he should reside not less than one month in his home island except the Members of the Maneaba n Maungatabu who has official duty away from their home island.

Section 6 amends section 20 of the Principal Act by reducing the number of vyears, from 7 to 5, after being convicted and to be eligible again to run for election. It gives a candidate a chance to run for politics not waiting for a long period despite their criminal case. Section 6 of the Bill further amends section 20 by inserting a new section 20A which is on ‘Qualification of subordinate staff’. This insertion clarifies that any person employed as a subordinate staff by the SOE, NGO’s and anyone employed in a project either in a contract or full time basis must resign from his position when he runs for election.

Section 7 inserts a new section 26A which improves the election procedure for people with disabilities. This insertion addresses the issue of disabilities who have encountered difficulties in voting during past elections. In this new insertion, it clearly specifies responsibilities of Electoral officers at every polling station to offer the special treatment to these type of people.

Section 8 inserts a new section 27A which is on ‘the distribution of foreign aid’. This is to address the issue of influencing people’s right to vote by using foreign aids which shall be considered as bribery action.

Section 9 amends Section 31 of the principal Act by increasing the fine of \$200 to \$500 and also increasing the number of years of imprisonment from 6 months to a maximum imprisonment of 1 year.

Section 10 amends section 32 by criminalizing the conduct of giving, offering gifts or valuable considerations when performed on the day and after the notice of election is published month before or during the election.

Section 11 amends section 36 of the principal Act by increasing the penalty of personation of '\$50' to '\$500' fine and also increasing the number of years of imprisonment from '3 months' to 'a maximum of 1 year'.

Lastly, Section 12 insert a new section 49A. This section outlines a responsibility of a Chief Electoral Officer under the direction of the Commission to provide a guideline for manifestos intended to be implemented by any political party. The Manifestos shall be submitted to the Electoral Commission 10 working days after the declaration of the candidates name for the Beretitenti.

These amendments were made to provide assistance efficiently and effectively regarding the election procedure to avoid future complaints from the general public and candidates who want to run for politics.

Hon Boutu Bateriki
Minister for Internal Affairs

LEGAL REPORT

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

Pauline Beiatou
Ag. Attorney General

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression of the Election (Amendment) Act 2024 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 22nd April 2024 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 ^{4th} day of ^{June} 2024.



Eni Tekanene

Clerk of the Maneaba ni Maungatabu