

REPUBLIC OF KIRIBATI



(No 28 of 2022)

I assent,

A handwritten signature in black ink, appearing to be "Beretitenti".

Beretitenti
3/2/2023



AN ACT

entitled

AN ACT TO AMEND THE KIRIBATI IMMIGRATION ACT 2019

Commencement:

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

1. Short title and commencement

This Act may be cited as the *Kiribati Immigration (Amendment) Act 2022*.

2. Meaning of 'principal Act'

In this Act the principal Act means the *Kiribati Immigration Act 2019*.

3. Amendment of section 4

Section 4 of the principal Act is amended as follows;

1) In the definition of 'residence procedures' the word "permanent" is inserted before the words 'residence visa' and shall read as follows;

"residence procedures' means immigration procedures certified under section 16 that relates to the grant of a permanent residence visa"

2) In the definition of 'resident' the word "permanent" is inserted before the words 'resident visa' and shall read as follows;

"resident' means the holder of a permanent resident visa"

3) The definition of "Residency Visa Commission" is repealed and substituted with the following;

"Residency Visa Commission' means the Commission established under the regulations whose functions are to-

(a) receive, assess, and consider all applications for permanent resident visas in Kiribati;

(b) advise and make recommendations to the Minister for approval of permanent resident visas in Kiribati; and

(c) carry out other duties as prescribed by the regulations.

4) A new definition of "permanent resident or residence visa" is inserted immediately after the definition of 'passport' and shall read as follows;

"permanent resident or residence visa means a visa that allows for indefinite re-entry and stay in Kiribati- the word resident or residence visa can be used interchangeably throughout the Act".

4. General Amendments to the Principal Act

The word "permanent" is inserted before the words "resident visa" and "residence visa" whenever these words appear in the table of contents and in the following sections 11(2)(a), 16(1)(a), 18(2), 31(1), 46(a), 47, 48 , 49, 80(1) and 100(3).

5. Amendment of section 48

Section 48 is amended as follows;

1) Section 48(2)(a) is amended by replacing the number '3' with '7' where it appears and shall read as follows;

“The person making the application must show that the person-

- (a) was, on the date of the application, and has been, during the period of 7 years immediately before that date, ordinarily resident in Kiribati; and”

6. Insertion of a new Section 48A

A new section 48A is inserted immediately after section 48(3) as follows;

“48A Cancellation of a permanent resident visa

48A (1) Subject to the provisions of this section, the Minister, acting in accordance with the advice of Cabinet, may by order cancel a permanent resident visa if the Minister has reasons to believe and is satisfied that the holder;

- (a) is not a person to whom a permanent resident visa ought to have been issued;
- (b) has become incapable of supporting himself or his dependents;
- (c) has behaved in a manner prejudicial to the peace and good order of Kiribati; or
- (d) is in breach of the conditions of his visa to which it is subject.

(2) Upon the order being made by the Minister under this section, in respect of any person, that person shall cease to be a resident from the date on which the order is served to that person, and the permanent resident visa previously issued shall be void.

(3) Notwithstanding section 83, the presence of a person in Kiribati, whose permanent resident visa has been declared void under subsection (2), is unlawfully and is liable for deportation under the provisions of sections 75 and 76 of this Act.

(4) An order made by the Minister under this section shall not be subject to a hearing, review or appeal by any person, any court of law or tribunal and shall not be questioned or enquired into by any person, court of law or tribunal.”

EXPLANATORY MEMORANDUM

The *Kiribati Immigration (Amendment) Act 2022* (the New Act) adjusts the disparities in the existing Principal Act with regards to the use of the immigration terminology “permanent residence visa”. The current Act uses three different words for the same type of visa, residency, resident and residence. The purpose of this amendment is to remedy the inconsistency.

Section 3 amends section 4 of the Principal Act standardizes the terminology (permanent residence visa) is crucial not only for a logical understanding in the general administration and implementation of the *Kiribati Immigration Act 2019* (the Act) but at the same time it concludes that there is only one type of visa for foreigners who wish to become resident and that is the permanent residence visa. Unlike other countries where there are different types of residence visas before a permanent visa status is granted, there is only one for Kiribati and therefore it should be well established under one single term in the Act.

Section 4 provides general amendments to the principal Act inserting the word ‘permanent’ before the words ‘resident’ and ‘residence’ visa in sections 11(2)(a), 16(1)(a), 18(2), 31(1), 46(a), 47, 48 , 49, 80(1) and 100(3) as the words residence and resident visa are used interchangeably throughout the Act.

The new Act also replaces the 3- year requirement for ordinarily resident in Kiribati by 7 years under section 48(2) (a). The aim of this amendment is to strengthen the requirement for a permanent resident visa (PR) considering the effect of the amendment that is currently underway to the *Citizenship Act 1979 (CAP 8A)* to increase the requirement from 7 to 10 years for a citizenship by naturalization.

A new Section “48A Cancellation of a permanent resident visa” is vitally important as a replication of Section 8 of the Citizenship Amendment Act 1986. Realizing that an alien who has been granted citizenship by naturalization or adoption can be deprived of such by virtue of Section 8 of the Citizenship Amendment Act 1986, a permanent residence visa (PR) issued under the *Immigration Act 2019* following the logical understanding that a PR does not confer citizenship status, it must if necessary be revoked accordingly.

These amendments endeavor to achieve better coordination and greater harmonization between the *Kiribati Immigration Act 2019* and the *Citizenship Act 1979* (as amended) for one sole-goal to protect our Kiribati borders, our people and families, villages and islands and our country Kiribati as a whole from foreigners that are a danger to our Kiribati community who should not be part of our lives and our future.

**HE Taneti Maamau
BERETITENTI**

LEGAL REPORT

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

**Ms Pauline Beiatou
Officer in Charge
Office of Attorney General**

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

This printed impression of the Kiribati Immigration (Amendment) Act 2022 has been carefully examined by me with the Bill which passed by the Maneaba ni Maungatabu on the 6 December 2022 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 3 day of
February 2023.



**Eni Tekanene
Clerk of the Maneaba ni Maungatabu**