

THE REPUBLIC OF KIRIBATI



(no. 26 of 2022)

I assent,

A handwritten signature in black ink, consisting of a stylized 'B' followed by a horizontal line.

Beretitenti

3/24 2023



AN ACT

entitled

An Act to make provision for the performance, services and management of the Public Service and other connected purposes.

Commencement date:

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 Public Service Performance Management Act 2022*.

2. Application

This Act will apply to:

- (a) every employee formally appointed by the Government as per listed in the Establishment Register most recently published; and
- (b) government agencies and departments, island councils and government joint venture companies.

3. Purpose

The purpose of this Act is to:

- (1) Empower public service inspectors appointed under Part IV to perform and carry out their duties effectively.
- (2) To establish and maintain a public service that:
 - (a) is politically neutral and impartial;
 - (b) efficiently and effectively serves the government of Kiribati and its people;
 - (c) provides fair and effective employment of employees;
 - (d) is highly skilled and capable to meet current and future needs;
 - (e) nurtures and motivates employees for high standard performance outputs;
 - (f) implements an evaluation system for continuous improvement and accountability;
 - (g) employs data to determine current and future workforce needs;
 - (h) practices and promotes the principles, values and Code of Conduct; and
 - (i) follows good governance practices.

4. Interpretation

In this Act, unless the context otherwise requires-

“Code of Conduct” means any code of conduct issued by the Secretary;

“Commission” means the Leadership Commission established under the *Leaders Code of Conduct Act 2016*;

“Department” means a department that is listed in the Establishment Register most recently published;

“Efficient Service Delivery” means the provision of required documents and services within 3 working days unless otherwise agreed between concerned Secretaries;

“Employee” is a person employed in a department, government agencies, island councils, joint venture companies and includes all post in the recent establishment register but does not include the Secretaries, CEOs and statutory positions;

“Government agencies” includes all government ministries, SOEs, and statutory corporations;

“Head of government agencies” includes SROs, CEO and Head of Divisions;

“Minister” means the Minister responsible for the public service;

“Obligatory government commitments” means all government commitments that PSO is mandated to implement;

“PSO” is the Public Service Office;

“Public Service” means all services being delivered by employees of government agencies, government joint venture companies and island councils;

“Public Service Inspectors” (PSI) means those officers appointed under Part V and include Public Service Performance Management Officers assigned to perform this duty under this Act and any other related laws;

“SOE” is an abbreviation for State Owned Enterprises; and

“Secretary” means the Secretary responsible for the Public Service.

PART II ADMINISTRATION OF THIS ACT

5. Administration of the Act

This Act shall be administered by the Minister responsible for the public service. The Minister has the power to delegate the administration of this Act to officers of the Ministry.

PART III PUBLIC SERVICE GUIDING PRINCIPLES AND VALUES

6. Guiding principles and values

Principles and values are the foundational pillars of the public service which are founded on the principles of good governance that is not limited to the following: -

- (a) People Centric Approach;
- (b) Integrity;
- (c) Transparency;
- (d) Accountability;
- (e) Ethics;
- (f) Honesty;
- (g) Efficiency and effectiveness;

- (h) Upholding rule of law and
- (i) Collaboration.

PART IV PUBLIC SERVICE OFFICE

7. Secretary

The principal role of the Secretary is to provide leadership and oversight of the public services including:-

- (a) ensuring the purposes of the Act are carried out;
- (b) promoting and ensuring the guiding principles and values of the public service are applied, including working with Secretaries to ensure the public service maintains high standards of integrity and conduct and is well led and trusted;
- (c) advising on the design and capability of the public service; and
- (d) carrying out the functions, responsibilities, duties and powers conferred on the Secretary under this Act or any other Act.

8. Functions

The principal functions of the Secretary when managing performance assessments and investigations include the following:

- (a) to receive, review and manage reports from the Public Service Inspectors;
- (b) to verify the data and information provided and obtained when conducting performance assessments and investigations regarding poor customer service, service delay and alleged corrupt misconduct;
- (c) to ensure the accuracy of reports, analysis, statistics, and other information concerning the public service;
- (d) to carry out the functions, responsibilities and duties and exercise the powers, required of the PSO under the National Conditions of Service and other obligatory government commitments;
- (e) to develop, and implement employee training and development programmes and the allocation of awards;
- (f) to produce the Establishment Register and Public Service Information Data;
- (g) to support, as appropriate, the Commission to carry out its functions;
- (h) to work collaboratively with the Commission in the collective interests of the public service; and
- (i) to carry out such other functions as may be allocated to the Secretary under this Act or any other Acts.

9. Powers

The Secretary shall exercise or have all powers as are reasonably necessary to enable him or her to carry out the functions, responsibilities and duties of the Secretary under this or any other Act.

PART V PUBLIC SERVICE INSPECTORS

10. Appointment of Public Service Inspectors

- (1) Subject to section 99 of the Constitution, the Minister may appoint Public Service Inspectors as are necessary or expedient for carrying out the purposes of this Act who shall be public officers. The Public Service Inspectors so appointed can be from outside the Ministry (appointed through internal contractual arrangement) or from among existing employees of the Ministry.
- (2) The Secretary may delegate to the Public Service Inspectors his or her roles, powers, duties or functions under this Act.
- (3) The Secretary shall provide identification badge or designation to all inspectors appointed.

11. General provisions relating to Public Service Inspectors

- (1) A Public Service Inspector may only exercise his or her powers under this Act for the purpose of implementation.
- (2) Before a Public Service Inspector executes his or her duty to any department or Ministry, as a matter of courtesy, the Secretary must inform the Head of that department or Ministry.
- (3) When exercising any functions under this Act the Public Service Inspectors shall wear their identification badge.
- (4) A person who falsely asserts himself to be a Public Service Inspector commits an offence and shall be liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 1 year.
- (5) A person who obstructs, intimidates, threatens, resists, or hinders a Public Service Inspector when exercising or performing his or her powers, duties and functions under this Act may be subject to disciplinary actions provided in the national condition of service for each respective government agencies.
- (6) A Public Service Inspector shall be accorded with efficient service delivery in providing documents and information required from time to time.

12. Public Service Performance Management Division

- (1) There shall be established a division within the PSO namely the Public Service Performance Management Division.
- (2) There are three units within the division namely, the National Customer Service Complaint and Improvement Center, the Public Service Integrity and Corruption Control Unit and the Public Service Inspection Unit.
- (3) All staff under this division are recognised as Public Service Inspectors.

13. Compliance

Head of government agencies where PSIs investigate and inspect must cooperate and assist with the inspectors in:-

- (a) providing information, files, and documents that inspectors request;
- (b) making himself or herself available to answer any reasonable questions pertaining to the assessment and investigation;
- (c) making his or her employees available to answer any reasonable questions pertaining to the assessment and investigation; and
- (d) making his or her employees available to complete the survey questionnaires pertaining to the assessment and investigation work.

14. Ministry Performance Assessment Review Committee

- (1) The Secretary may from time to time establish committees to oversee the implementation of recommendations contained in the performance assessments for the concerned departments.
- (2) The Committee shall comprise of 6 members as follows:-
 - (a) two senior employees of the PSO nominated by the Secretary;
 - (b) two senior members of the department assessed and will be nominated by the Secretary of that department; and
 - (c) two senior members of one or more departments nominated by the Secretary.
- (3) Every committee shall ensure the findings and recommendations of the performance assessment are identified and appropriate actions are taken under a work programme agreed to by the Committee to be implemented.
- (4) The quorum of the committee is 4 members.

PART VI
INVESTIGATIONS OF CORRUPTION AND EMPLOYEES' DUTIES

15. Investigations in support of the recent National Anti-Corruption Strategy

- (1) The Public Service Inspectors may carry out investigations into allegations or suspicions of corruption across the public service on the Secretary's own motion or as directed by the Minister.
- (2) If at any time before or during an investigation the PSI believes the investigation would be more appropriately carried out by another agency, the PSI would get the Minister's direction through the Director and Secretary.
- (3) Where the investigation involves a leader, or after commencement of the investigation it is believed that the investigation is likely to involve a leader who is subject to the *Leaders Code of Conduct Act 2016*, that part of the investigation involving the leader will be referred to the Commission.
- (4) Where the PSIs carry out an investigation on the Secretary's own motion he or she may exercise the powers and functions as provided in section 8 and 9 of this Act.
- (5) In addition to the PSI's powers conferred under this Act, when carrying out an investigation the PSI shall have the same powers to summon witnesses and to admit and receive evidence as are given to Commissioners under section 11 of the *Commission of Inquiries Ordinance Cap.10*.
- (6) Following the completion of the investigation the PSI must provide a report to the Minister with the findings of the investigation and recommendations as to what (if any) action should be taken.
- (7) Where the findings of the investigation require a staff to be terminated or disciplined a submission will be sent to the PSC or Board of Directors copying the Office of the Attorney General for proper consideration and necessary action. This is not applicable to posts which are excluded from the direction of the PSC as stated in the NCS.

PART VII
NATIONAL CUSTOMER SERVICE & IMPROVEMENT CENTER (NCSIC)

16. Investigation in support of the NCSIC

- (1) The Public Service Inspectors are responsible to receive, manage and deal with complaints from an individual concerning poor customer service.

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- (2) PSIs shall carry out investigation into the complaints raised against all organisations reflected in Part I section 2 of this Act when directed by the Minister.
- (3) In the case where the complaints were not attended within 7 working days with no resolutions from government agencies, these agencies shall be regarded as being reactive in performing quality customer service delivery. A list of both proactive and reactive organizations together with the report shall be available for the attention of the Secretary and the Minister.

PART VIII MISCELLANEOUS

17. Regulations

The Minister may make regulations for the purposes of carrying out or giving effect to the principles and provisions of this Act.

18. Immunity

Secretary and Public Service Inspectors are immune from liability in civil proceedings for actions and omissions carried out in good faith when carrying out their functions, duties, and powers.

19. Consequential amendments

The *Kiribati Audit Act 2017* is amended by repealing section 17(2) and substituting the following:

“Auditors appointed under subsection (1) must conduct themselves in accordance with the requirements of the Code of Ethics of the International Standards for Supreme Audit Institutions (ISSAIs) and the principles and values of the Public Service set out in the Public Service Performance Management Act 2022.”

EXPLANATORY MEMORANDUM

The Act deals with empowering Public Service Inspectors (PSIs) in the Public Service Performance Management Division of the Public Service Office in carrying out their inspections and investigations when dealing with reported cases of complaints and corruption in Government organisations. The PSIs were also empowered to investigate government agencies, island councils and government joint venture companies.

The main objective of this Act includes the followings:

- (i) to eliminate any forms of corruption in both the Public and Private Sectors;
- (ii) to lessen complaints;
- (iii) to fast-track the delivery of excellent quality of goods and services; and
- (iv) to improve performance and productivity in all sectors.

This Act is made up of **8 (VIII) Parts and 19 Sections**.

PART I of the Act, Sections 1-4 deals with preliminary matters such as the Short Title, Application, Purpose, and Interpretation.

PART II of the Act, Sections 5 states the administrative role of the Minister who has the power to delegate this role to Officers of the Ministry.

PART III Section 6 deals with the Public Service Guiding Principles and Values that are founded on the principles of good governance but are not limited to the listing (a-i) provided in which the Public Service must operate.

PART IV of the Act, Section 7-9 provides the principal role, functions and powers of the Public Service Office vested in the Secretary.

PART V of the Act has sections 10-14. Section 10 (1-3) deals with the appointment of Public Service Inspectors who can be selected from within or outside the Ministry to whom the Secretary may delegate directions to carry out the exercise or performance of any powers, duties, or functions under this Act.

Section 11 (1-6) include general provisions for fines and disciplinary measures on those who impersonate PSI's and who obstruct investigations and inspections. Additionally, it discusses the need for the Secretary to make consultations with Heads of Departments prior to the conducting of exercises covered under this Act and for PSI's to wear identification badges.

Section 12 is a mandatory provision whereby the Public Service Performance Management Division be recognised as an implementing institution having 3 units, namely the National Customer Service and Improvement Centre, the Public Service Integrity and Corruption Control Unit, and the Public Service Inspection Unit.

Section 13 A must compliance list (a-d) for heads of government agencies and institutions, requiring them to cooperate and assist PSIs in their inspections and investigations.

Section 14 states the need for the establishment of a Ministry Performance Assessment Review Committee from time to time to oversee the implementation of recommendations contained in the performance assessments for the concerned organisations. Additionally, it details who the members of such a committee are.

PART VI Section 15 (1-7) Procedural sequential list of assigned tasks for PSIs in dealing with corruption cases.

PART VII Section 16 (1-7) Procedural guidelines provided for PSIs handling complaint cases.

PART VIII Section 17-19 Spells out the ability of a Minister to make regulations when required, the protection of PSIs from being sued (immunity), and the need of recognising consequential amendments to relevant existing Acts.

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 His Excellency the Beretitenti may properly assent to the Act.

Ms. Pauliue Beiatu
Officer in Charge
Office of Attorney General

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

This printed impression of the Public Service Performance Management Act 2022 has been carefully examined by me with the Bill which passed by the Maneaba ni Maungatabu on the 5th December 2022 and is found by me to be a true and correctly printed copy of the said Bill.

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Eni Tekanene
Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this 3 day of
February 2023.

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