

REPUBLIC OF KIRIBATI



Arrangement of Sections

**PART I
PRELIMINARY**

1. Short title
2. Interpretation
3. Application of this Act
4. Objectives of the Act

**PART II
ADMINISTRATION OF THE ACT**

5. Minister responsible for Te Umwanibong

**PART III
FUNCTIONS OF TE UMWANIBONG**

6. Functions of Te Umwanibong

**PART IV
PROCEDURE TO ACQUIRE PERMIT, POWERS AND DUTIES OF DIRECTOR**

7. Application for permit
8. Powers and duties of the Director
9. Vesting in objects given to, acquired for or transferred to Te Umwanibong
10. Repatriation of artefacts and cultural collections from foreign countries

**PART V
FINANCIAL PROVISIONS**

11. Establishment of the Special Fund
12. Administration of the Fund
13. Accounts and reports

**PART VI
MISCELLANEOUS**

14. Regulations
15. Offences and penalties
16. Liability for damage caused to Te Umwanibong collections
17. Protection of Government and Staff of Te Umwanibong from civil proceedings

14 FEB 2023

REPUBLIC OF KIRIBATI



(No. 23 of 2022)



I assent,


Beretitenti
25 / 11 / 2022

AN ACT

entitled

An Act to make provisions for the management of the Museum and for the protection, preservation and promotion of Cultural Heritage and for other connected purposes

Commencement date:

_____ 2022

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

PART I – PRELIMINARY

1. Short title

This Act may be cited as *Te Umwanibong Act 2022*.

2. Interpretation

In this Act, unless the context otherwise requires-

“Act” means *Te Umwanibong Act 2022*;

“cultural heritage” includes tangible heritage (moveable, immobile and underwater), intangible cultural heritage (ICH) embedded into cultural, and natural heritage;

“cultural mapping exercise” means a process to identify and document cultural heritage;

“Director” means the Director of Te Umwanibong;

“Fund” means Te Umwanibong Fund established under section 11;

“Minister” means the Minister responsible for Te Umwanibong;

“Ministry” means the Ministry responsible for Te Umwanibong;

“museum” means a building in which Te Umwanibong collections are stored and exhibited;

“national cultural properties” includes such item as cultural landscape, underwater cultural heritage, cultural and historical sites, war relics, historic and heritage buildings, works of arts, archaeological sites as well as Te Umwanibong collections;

“Secretary” means the Secretary of the Ministry responsible for Te Umwanibong;

“Te Umwanibong” has the same meaning as Museum and is used interchangeably throughout the Act; and

“Te Umwanibong collection” includes artefacts, videos, documents, books and any other properties owned by Te Umwanibong for the purposes of Te Umwanibong.

3. Application of this Act

This Act binds the Republic.

4. Objectives of the Act

The core objectives of the Act include but are not limited to the following:

- (a) to promote the profile of Te Umwanibong and the cultural heritage;
- (b) to protect Te Umwanibong collections and cultural heritage of Kiribati;
- (c) to promote the traditional and contemporary knowledge and skills; and
- (d) to preserve and promote Kiribati unique stories and value of our culture through displaying Te Umwanibong collections.

PART II: ADMINISTRATION OF THE ACT

5. Minister responsible for Te Umwanibong

- (1) This Act shall be administered under the direction and control of the Minister.
- (2) The Minister has power to delegate the administration of this Act and such powers and functions conferred by this Act to officers within the Ministry as the Minister considers appropriate.

PART III: FUNCTIONS OF TE UMWANIBONG

6. Functions of Te Umwanibong

The functions of Te Umwanibong include but are not limited to the following:-

- (a) to establish the national register of Te Umwanibong for the purpose of recording Te Umwanibong collections and national cultural properties;
- (b) to acquire Te Umwanibong collections through a cultural mapping exercise or other means conducted at different islands in Kiribati and classified them as whether they are gifts, donations, loans or purchases;
- (c) to collect and document the prehistory of Kiribati by archaeological surveys;
- (d) to collect histories of islands published by scholars;
- (e) to protect archaeological sites;
- (f) to exhibit Te Umwanibong collections from different islands and acknowledge sources;
- (g) to aid the advancement of knowledge through research for students and other local researchers from other institutions;

- (h) to protect and preserve cultural collections that will include handling of such cultural collections with care, digitalization (to avoid any disaster risk) and keeping them in a proper storage;
- (i) to promote the museum and cultural heritage to the public as they have unique stories;
- (j) to conserve and restore Te Umwanibong collections;
- (k) to protect and preserve cultural and historical sites and war relics in every islands of Kiribati;
- (l) to promote and encourage cultural values and practices;
- (m) to recommend to the Minister conventions relating to museum and culture and the benefits and obligations of members for Kiribati consideration; and
- (n) to advise the Minister of the obligations derived from the conventions relating to museum and culture where Kiribati is a party to.

PART IV: PROCEDURE TO ACQUIRE PERMIT, POWERS AND DUTIES OF DIRECTOR

7. Application for permit

- (1) Any person, body, foreigner, company, or any other researchers who wish to conduct a study on Te Umwanibong collections and cultural heritage of Kiribati shall apply for a permit to the Secretary. The decision of the Secretary shall be conveyed by the Director.
- (2) Any person aggrieved by the decision of the Secretary may appeal to the Minister. The decision of the Minister shall be conveyed by the Director.
- (3) Any person or agent who conducts any research on behalf of a foreigner or a person residing outside Kiribati shall follow the same procedure in subsections (1) and (2).
- (4) An application to the Museum for Te Umwanibong collections and cultural heritage research shall contain the following:-
 - (a) name and address of the applicant;
 - (b) details of the applicant whether individual or corporate; and
 - (c) specific name of activity the applicant will undertake when applying for a permit.
- (5) The application form may be prescribed.

- (6) An application must be accompanied by such fees as may be prescribed.
- (7) The date of an application under subsection (2) must be the earliest date on which:
 - (a) all the requirements under subsection (4) have been satisfied; and
 - (b) all fees payable under subsection (6) have been paid.
- (8) All applicants who conducted a study on Te Umwanibong collections and the cultural heritage of Kiribati shall be responsible for sharing the data, information and result to the Ministry, to be used to improve and strengthen the protection, conservation, management, and promotion of Te Umwanibong.
- (9) Any person, body, company or other researchers shall seek approval from the Ministry before sharing data or information to a third party acquired during the research.
- (10) Any person, body, company or other researchers who conduct research under this section without a permit commits an offence and shall be liable to a fine of not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

8. Powers and duties of the Director

Subject to section 5, the Director shall have the general management and control of Te Umwanibong and for that purpose may-

- (a) make recommendations regarding rules as she or he thinks necessary for securing the due administration of Te Umwanibong and preserving Te Umwanibong collections collected therein, including rules requiring payment to be made for admission to Te Umwanibong in consultation with the Secretary;
- (b) exchange, sell or otherwise dispose of any duplicate collections belonging to Te Umwanibong to be preserved or not to be required for the purposes thereof in consultation with the Secretary;
- (c) conduct awareness to the public for significance and value of Te Umwanibong collections and cultural heritage; and
- (d) do such other things as appear to be necessary or expedient for furthering the interests and increasing the utility of Te Umwanibong.

9. Vesting in objects given to, bequeathed, acquired for or transferred to Te Umwanibong

All museum collections given, bequeathed or otherwise acquired for the purposes of Te Umwanibong at any time before the date on which Te Umwanibong is first constituted and not disposed of before that date shall, by virtue of this Act, vest in the Secretary; and all museum collections which are at any subsequent time expressly given or bequeathed to the public or to the nation or to the Secretary for the purposes of Te Umwanibong, or given or bequeathed by words

showing an intention that the gifts should ensure to or for the benefit of Te Umwanibong, or which are acquired by the purchase or otherwise for the purposes of Te Umwanibong, shall vest in the Secretary and be held by the Secretary for the purposes of Te Umwanibong.

10. Repatriation of artefacts and cultural collections from foreign countries

- (1) The Director may recommend to the Minister the seeking of the return of artefacts and collections from overseas countries where Kiribati have exclusive rights or partly owned and which are of national and cultural significance.
- (2) In cases where the artefacts and collections owned by the Government of Kiribati cannot be repatriated from overseas countries, the Museum may enter into a Memorandum of Understanding with that foreign country for the benefit of Kiribati.

PART V: FINANCIAL PROVISIONS

11. Establishment of the Special Fund

- (1) A Special Fund known as Te Umwanibong Fund shall be established in accordance with section 107(2) of the *Constitution* and section 13 of the *Public Finance (Control and Audit) Ordinance* and shall be referred to as the *Fund* throughout this Act.
- (2) There shall be paid into this Fund:
 - (a) any money appropriated by the Government of Kiribati for the purposes of this Act;
 - (b) any money received pursuant to fees or charges on permit or any other fees authorized by this Act or Regulations; and
 - (c) any other money payable under any other law into the Fund.
- (3) The Fund shall be used for the management of the Museum, protection, preservation and promotion of Cultural Heritage. It is not to be used for the administration of the Fund or for the Board purposes.

12. Administration of the Fund

- (1) The Fund shall be administered by the Minister of Finance and the Board established under this section.
- (2) The Board of Directors shall consist of 5 members- a Chairperson, Vice Chairperson and 3 other members to be appointed by the Minister responsible for Te Umwanibong.

- (3) Members of the Board shall be paid a sitting allowance at such rate endorsed by the Minister responsible for Te Umwanibong.
- (4) The Director shall be the Secretariat to the Board.
- (5) An account or accounts shall be opened with any bank approved by the Minister of Finance and the Board and the balance of which does not revert to the general account.
- (6) The Fund is, subject to transparency and accountability measures including biannual summary of accounts, be submitted to Cabinet and the Kiribati Audit Office.

13. Accounts and reports

- (1) The Director under the supervision of the Secretary shall keep proper accounts of the Fund in respect of its operation and shall cause to be prepared a statement of account in respect of each financial year.
- (2) The Director under the supervision of the Secretary may apply to the Board for money to be used which in the opinion of the Secretary is desirable to acquire for the development of Te Umwanibong or implementing its functions.
- (3) The summary accounts of the Fund shall be audited annually by the Kiribati Audit Office.

PART VI: MISCELLENEOUS

14. Regulations

- (1) The Minister may make regulations for the purposes of carrying out or giving effect to the principles and provisions of this Act.
- (2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters-
 - (a) all matters relating to the functions of Te Umwanibong;
 - (b) all matters stated or required in this Act to be prescribed or in respect of which regulations are required or authorized to be made under this Act;
 - (c) the admission of visitors to Te Umwanibong, including the fees to be paid by such visitors and the regulation of the conduct of such visitors;

- (d) the regulation of the use of Te Umwanibong and of the premises thereof, the protection of Te Umwanibong collections kept or preserved therein and the prohibition or restriction of the taking of photographs;
- (e) the preservation and protection of war relics, cultural and historical sites;
- (f) the collection and export of artefacts and national cultural properties;
- (g) the imposition of fees to be charged in respect of the use of rooms in Te Umwanibong, or from persons by whom any photographs are taken of any book, document or Te Umwanibong collections kept or preserved at Te Umwanibong; and
- (h) the publication of books or journals by the Director, and the sale of such books or journals.

15. Offences and penalties

- (1) Any person who willfully causes any damage to Te Umwanibong collections kept or preserved at Te Umwanibong commits an offence and shall be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years, or to both.
- (2) Any person who knowingly or intentionally provides false statement related to cultural stories, artefacts, values, or on any other related matters commits an offence and shall be liable to a fine not exceeding \$1000 or to imprisonment to a term not exceeding 1 year, or to both.
- (3) Any person who steals Te Umwanibong collections will be penalized under the *Penal Code Cap 67*.
- (4) Any person who acts in contravention of any provisions of this Act where there is no specified penalty commits an offence and shall be liable to a fine not exceeding \$1000 or to imprisonment to a term not exceeding 1 year or both.
- (5) Any person who acts in contravention of any regulation made under this Act shall be guilty of an offence.

16. Liability for damage to Te Umwanibong collections

Any person who causes any damage to any of Te Umwanibong collections kept or preserved at Te Umwanibong, shall be liable to pay to Te Umwanibong a sum equal to twice the value of the collection(s) or any other amount determined by the Court; and any sum so payable may be recovered by civil action.

17. Protection of Government and staff of Te Umwanibong from Civil proceedings

Neither the Government nor staff of Te Umwanibong is liable in civil proceedings if –

- (a) they act in good faith when exercising or performing their functions in accordance with the Act; and
- (b) any person who lawfully exercises any power or performs any function under the authority of this Act.

EXPLANATORY MEMORANDUM

The Act deals with the administration and the preservation, promotion and protection of Te Umwanibong collections, cultural heritage and national cultural properties.

The Act has 6 parts. Part I focuses on the Preliminary Matters which consists of the short title, interpretation of important terms used throughout the Act and the major objectives of the Act.

Part II deals with the Administration of the Act.

Part III includes the functions of the Umwanibong. The core functions of Te Umwanibong includes acquiring cultural collections through a cultural mapping exercise, conduct exhibition, preserve, promote and protect all cultural collections that will be used for the purposes of Te Umwanibong.

Part IV stipulates the procedures on how to apply or acquire permits for research in relation to Te Umwanibong collections and cultural heritages. It further provides for the powers and duties of the Director in relation to the implementation of this Act. This part also includes the need to repatriate Te Umwanibong collections and artefacts from foreign countries through the Memorandum of Understanding.

Part V deals with the financial provisions. It establishes the Special Fund known as Te Umwanibong Fund. A Board is also established to administer the Fund. The Fund shall be audited annually by the audit office in Kiribati.

Part VI is the Miscellaneous which is the last part of this Act. It lays down the general powers of the Minister in making regulations for the purposes of carrying out or giving effect to the principles and provisions of this Act. This Part also includes the general offences, penalties and immunities of staff of Te Umwanibong from civil proceedings.

HONOURABLE BOUTU BATERIKI

Minister for Internal Affairs

LEGAL REPORT

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

Tetiro Maate Semilota
Attorney-General

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression of the Umwanibong Act 2022 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 5th September 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 day
of 2022.



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Eni Tekanene
Clerk of the Maneaba ni Maungatabu