

REPUBLIC OF KIRIBATI
(No. 6 of 2006)

I assent,

Beretitenti
Assented 26th January 2007

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT 1984

Commencement:
2006

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

Short title and commencement

1. This Act may be cited as the Local Government (Amendment) Act 2006, and shall come into force on such date as the Minister may, by notice published in the Gazette, appoint.

Amendment of section 2

2. Section 2 of the Local Government Act 1984, as amended (hereinafter referred to as the principal Act) is amended as follows -

(a) in subsection (1) -

- (i) by repealing the definition of “executive officer”;
- (ii) in the definition of “nominated member” by inserting at the end the words “by an association recognised by the Council.”;
- (iii) by repealing the definition of “person resident” and substituting the following new definition -

“person resident” means, in relation to the area of authority of any council, a person residing for the time being in such area;

(iv) by inserting a new definition as follows -

““waters adjacent” means, notwithstanding the provisions of the Fisheries Ordinance and the Maritime Zones Declaration Act, the lagoon and/or parts of the sea having as, its inner limits the low-water line, as defined under the Marine Zones Declaration Act, and extending 3 nautical miles seaward, but where two or more councils have their adjacent waters over-lapping, an

agreement shall be reached to determine the extent of their adjacent waters, failing that the Minister shall so determine;”

- (b) in subsection (2) by -
 - (i) in paragraph (a) by inserting the word “or” after the semicolon;
 - (ii) repealing paragraph (b); and
 - (iii) renumbering paragraph “(c)” as paragraph “(b)”.

Amendment of section 6

3. Section 6 of the principal Act is amended by inserting the words “authority of” immediately after the words “area of”.

Amendment of section 9

- 4. Section 9 of the principal Act is amended -
 - (a) by repealing subsection (1) and substituting the following -

“9.(1) Subject to subsections (2) and (3), a person shall be qualified for election as a member of a council if -

 - (a) he has been registered as an elector; and
 - (b) he has attained 21 years of age.”
 - (b) in subsection (2), by –
 - (i) repealing paragraphs (b) and (c);
 - (ii) in paragraph (d), by repealing the figure “5” and substituting the figure “2”;
 - (iii) renumbering paragraphs (d) and (e) as paragraphs (b) and (c); and
 - (iv) by inserting the following paragraphs after paragraph (c) -
 - “(d) has been previously convicted and sentenced to a period of or not exceeding 12 months imprisonment;
 - (e) is in lawful detention by reason of having been certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Kiribati; and”.
 - (c) by repealing subsection (3); and
 - (d) by renumbering subsection (4) as subsection (3).

Amendment of section 10

5. Section 10 of the principal Act is amended -
- (a) in subsection (1), by inserting a full stop after the word “election” and repealing the words thereafter;
 - (b) by repealing subsection (2); and
 - (c) by renumbering subsection (3) as subsection (2).

Amendment of section 12

6. Section 12 of the principal Act is amended in subsection (2) by inserting a new paragraph (c) as follows -

“(c) if he fails to attend 2 consecutive meetings without permission of the council.”

Amendment of section 13

7. Section 13 of the principal Act is amended by repealing the whole section.

Repeal and substitution of sections 15 and 16

8. Sections 15 and 16 of the principal Act are repealed and the following sections substituted -

“15. Tibi Kauntira

- (1) Every council shall have a Tibi Kauntira.
- (2) Nomination for and election to the office of the Tibi Kauntira shall be conducted in accordance with this section.
- (3) Subject to this section, the provisions of the *Elections Ordinance* and any regulations made thereunder shall apply, *mutatis mutandis*, to an election to the office of Tibi Kauntira as if the election were an election conducted in accordance with the Ordinance and the regulations for the election of one member of a council.
- (4)
 - (a) As soon as practicable after the election of a Council, the Electoral Officer for the electoral district in which the Council is located shall call for nominations, from among the elected members, of candidates for election as Tibi Kauntira.
 - (b) Nominations may only be received from the candidates themselves, and the provisions of sections 12 and 13 of the *Elections Ordinance* (which deal with the nomination of candidates and the validity of nominations respectively) shall not apply to an election to the office of Tibi Kauntira.
- (5) Every person who is entitled to vote in the election for the Council shall be entitled to vote in the election of the Tibi Kauntira.

(6) A person elected to the office of Tibi Kauntira under this section shall assume office on the day upon which he is declared elected.

(7) The Tibi Kauntira, unless he ceases to be Tibi Kauntira by virtue of subsection (8), shall continue in office until the Council is dissolved.

(8) The Tibi Kauntira shall cease to be Tibi Kauntira:

- (a) if he resigns his office in writing addressed to the Ministe;
- (b) following passage of a motion of no confidence in the Tibi Kauntira under section 16A; or
- (c) if he ceases to be an elected member of the Council.

(9) Subject to subsection (10), where the office of Tibi Kauntira fall vacant a new Tibi Kauntira shall be elected in the manner provided for under subsections (2), (3), (4), (5) and (6).

(10) Notwithstanding section 16(2)(d), where the office of Tibi Kauntira falls vacant during the period of six months before the day on which the Council will stand dissolved under section 17A, the Minister may, after consultation with the remaining members of the Council, direct that the Kauoman-n-Tibi Kauntira shall assume office of Tibi Kauntira, who may in turn appoint a Kauoman-n-Tibi Kauntira from among the elected members until such time the Council is dissolved.

(11) A Tibi Kauntira shall, if qualified, be eligible for re-election.

16. Kauoman-n-Tibi Kauntira

(1) Every Council shall have a Kauoman-n-Tibi Kauntira, who shall be appointed by the Tibi Kauntira from among the elected members of the Council.

(2) The Kauoman-n-Tibi Kauntira shall cease to be Kauoman-n-Tibi Kauntira:

- (a) if he resigns his office, by notice in writing addressed to the Tibi Kauntira;
- (b) if he ceases to be an elected member of the Council;
- (c) if he is removed from office by the Tibi Kauntira; or
- (d) when the Tibi Kauntira who appointed him ceases to hold office.”

New section 16A

9. After section 16 of the principal Act the following is inserted:

“16A Motions of no confidence

- (1) Subject to this section, where a motion of no confidence in the Tiibi Kauntira is supported by the votes of not less than two-thirds of all the elected members of the Council the Tiibi Kauntira shall cease to be Tibi Kauntira.
- (2) A motion of no confidence in the Tibi Kauntira shall not be moved:
 - (a) during the period of eighteen months commencing on the day on which the Tibi Kauntira assumed office;
 - (b) during the period of one year before the day on which the Council will stand dissolved under section 17A(1); or
 - (c) during the period of six months immediately following the rejection by the Council of a prior motion of no confidence in the Tibi Kauntira.
- (3) A motion of no confidence may only be moved by an elected member.
- (4) A motion of no confidence shall not be considered unless at least seven days' notice of the motion has been served on all elected members and both the Tibi Kauntira and the Kauoman-n-Tibi Kauntira are present when such motion is moved and considered.

Insertion of section 17A

11. A new section 17A is inserted as follows -

“Expiration of term of Council

17A.(1) At the expiration of 4 years after the election, the council shall stand dissolved and fresh elections shall be conducted in accordance with the *Elections Ordinance*.

- (2) When the council stands dissolved, the Clerk may exercise the powers of the Council except the power to make byelaws, approve annual estimates, levy a rate, or borrowing or lending money.”

Amendment of section 19

12. Section 19 of the principal Act is amended in the proviso clause by the repealing the words “twice in any 1 year” and substituting the words “once in every quarter of a year”.

Amendment of section 20

13. Section 20 of the principal Act is amended -

- (a) in subsection (1) by -
 - (i) repealing the words “one-third” and substituting the words “two thirds”; and
 - (ii) inserting the word “elected” between the words “the” and “members” and by inserting at the end the following “in consultation with the special member”;

- (b) in subsection (2) by repealing the subsection and substituting the following -

“(2) Subject to section 16A, the Tibi Kauntira or in his absence the Kauoman-n-Tibi Kauntira must call a meeting within seven days of the date of the requisition under subsection (1), or if both of them are absent by any one of those elected members or a special member presenting the requisition.”

- (c) in subsection (3) paragraph (a) by inserting the word “elected” between the words “by” and “members” in the second line.

Amendment of section 22

14. Section 22 of the principal Act is amended by repealing the words “whole number of the” and substituting the word “elected”.

Amendment of section 24

15. Section 24 of the principal Act is amended in -

- (a) subsection (1) by inserting the word “elected” between the words “the” and “members”; and
- (b) subsection (3) by inserting the word “elected” between the words “the” and “members”.

Amendment of section 29

16. Section 29 of the principal Act is amended as follows -

- (a) in subsection (1) by repealing the words “the term of office of the Tiibi Kauntira”; and
- (b) in subsection (2) -
 - (i) by inserting the words “and Te Kauoman Tiibi Kauntira” between the words “Tiibi Kauntira” and “of”; and
 - (ii) repealing the word “him” and substituting the word “them”.

Amendment of section 33

17. Section 33 of the principal Act is amended by inserting a new subsection (3) as follows -

“(3) A committee appointed under this section shall comprise five members, three of whom shall be elected members.”

Amendment of section 35

18. Section 35 of the principal Act is amended by inserting “as soon as practicable” at the end of the said section.

Amendment of section 37

19. Section 37 of the principal Act is amended by -
- (a) inserting the words “make byelaws preventing” between the words “to” and “the”; and
 - (b) repealing the word “prevent”.

Amendment of section 43

20. Section 43 of the principal Act is amended in subsection (2) as follows -
- (a) by inserting the words “Subject to section 55,” immediately at the beginning of the subsection; and
 - (b) by inserting the words “to a reasonable standard or habitable condition” between the words “maintain” and “quarters”.

Amendment of section 44

21. Section 44 of the principal Act is amended -
- (a) in subsection (2) by inserting the words “responsible for land matters” between the words “Minister” and “may”;
 - (b) in subsection (4) by inserting the words “responsible for land matters” between the words “Minister” and “shall”;
 - (c) in subsection (5) by inserting the words “responsible for land matters” between the words “Minister” and “may”; and
 - (d) by inserting a new subsection (6) as follows -

“(6) In exercising his powers under this Act, the Minister, responsible for land matters, is required to consider other suitable locations.

Amendment of section 48

22. Section 48 of the principal Act is amended by repealing the word “council” appearing between the words “the” and “in” and substituting the word “Republic”.

Amendment of section 49

23. Section 49 of the principal Act is amended by -
- (a) renumbering the present section 49 as subsection (1);
 - (b) inserting at the end of the said subsection (1) the words “in accordance with an action plan of the Council dealing with disasters and emergencies.”; and
 - (c) inserting a new subsection (2) as follows -

“(2). In any such event, the Tiibi Kauntira shall immediately report the circumstances to the Minister and to the council concerned and the Minister shall submit the report of the Tiibi Kauntira to the Minister responsible for disaster management for funding.”

Amendment of section 50

24. Section 50 of the principal Act is amended -

- (a) in subsection (1) by repealing -
 - (i) the figure “\$100” and substituting “\$10,000”;
 - (ii) the words “6 weeks” and substituting the words “2 years”;
 - (iii) the figure “\$2” and substituting “\$2,000”; and
- (b) in subsection (5), by repealing the word “a” appearing between the words “empower” and “specified” and substituting the word “that”;

Amendment of section 51

25. Section 51 of the principal Act is amended -

- (a) by repealing subsection (3) and substituting the following -

“(3) When proposing a bye-law or amendment of a bye-law as the case may be, the Council shall cause such bye-law or amendment to be publicised widely, debated and discussed at public meetings of persons resident within the area of authority of the council.”
- (b) subsection (4) by inserting the words “giving reasons for such refusal” between the words “approve” and “any”; and
- (c) subsection (5) by repealing the words “at any time” appearing between the words “may,” and “after” and substituting the words “in the public interest”.

Amendment of section 52

26. Section 52 of the principal Act is amended in subsection (2) by repealing the words “in the vernacular” appearing between the words “thereof” and “approved”.

Amendment of section 55

27. Section 55 of the principal Act is amended -

- (a) by repealing paragraphs (a) and (b);
- (b) by renumbering sub-paragraphs “(i) – (xiv)” as paragraphs “(a) – (n)” respectively;
- (c) in the new paragraph (c), by inserting at the end the words “and Acts”;

- (d) by repealing the new paragraphs (l), (m) and (n) and substituting the following new paragraph -

“(l) all monies derived from hiring of plants and vehicles owned by the Council.”

Amendment of section 63

28. Section 63 of the principal Act is amended by repealing the whole section and substituting the following -

“63. The Minister, acting in accordance with the advice of Cabinet shall issue written instructions, to be called Financial Instructions, not inconsistent with this Act, for -

- (a) regulating and for controlling the making of receipts and payments of council;
- (b) regulating and controlling operation of the bank accounts of Councils;
- (c) providing for abandonment of claims and write offs;
- (d) regulating the tendering of services required by the Council;
- (e) regulating the purchase and safekeeping of stores and supplies; and
- (f) the better control and management of the financial business of councils,

and such instructions may be issued either generally or with respect to the councils in any particular area and shall be observed and obeyed by the council or councils with respect to which such instructions have been issued.”

Amendment of section 68

29. Section 68 of the principal Act is amended -

- (a) by repealing the words “Director of Audit” and substituting the words “Auditor General”; and
- (b) by inserting at the end the following “and for submission to the Maneaba ni Maungatabu for information.”.

Amendment of section 69

30. Section 69 of the principal Act is amended -

- (a) by repealing the words “Director of Audit” wherever they occur and substituting the words “Auditor General”;
- (b) in subsection (1) paragraph (a), by inserting the words “unlawful or” between the words “is” and “contrary”; and

- (c) by repealing the proviso clause at the end of subsection (1).

Amendment of section 70

- 31. Section 70 of the principal Act is amended by repealing -
 - (a) the word “servants” appearing in the title heading and substituting the word “employees”; and
 - (b) the word “servant” appearing between the words “or” and “of” in the first and second lines and substituting the word “employee”; and
 - (c) by repealing the words “Director of Audit” and substituting the words “Auditor General”;

Amendment of section 71

- 32. Section 71 of the principal Act is amended -
 - (a) by repealing the words “Director of Audit” wherever they occur and substituting the words “Auditor General”;
 - (b) in the proviso clause -
 - (i) by repealing the words “Provided that”; and
 - (ii) renumbering the said clause as subsection (2);
 - (c) inserting a new subsection (3) as follows -

“(3) The costs associated with attending the audit examination and proceedings connected thereto shall be borne by the Republic.”
 - (d) in subsection (2) -
 - (i) by renumbering the said subsection as subsection (4); and
 - (ii) by repealing the figures “\$100” and “3 months” and substituting the figures “\$1000” and “6 months” respectively.

Amendment of sections 72, 73, 74 and 75

- 33. Sections 72, 73, 74 and 75 of the principal Act are amended by repealing the words “Director of Audit” wherever they occur and substituting the words “Auditor General”.

Amendment of section 76

- 34. Section 76 of the principal Act is amended by repealing the figure “57” in the second line and substituting the figure “47”.

Amendment of section 78

35. Section 78 of the principal Act is amended by repealing the whole section and substituting the following -

“78. If in any financial year, the Council is required to -

- (a) cover expenditure previously incurred;
- (b) meet contingencies;
- (c) defray any expenditure not yet defrayed; and
- (d) make supplementary appropriation to cover any unforeseen expenditure or offset any expenditure already incurred without provision,

the Council shall by formal resolution make and levy one or more of the rates specified in section 77(1) as will be sufficient to provide for such purposes.”

Amendment of section 80

36. Section 80 of the principal Act is amended -

- (a) in subsection 2(a), by repealing the words “18 years” and substituting the words “21 years”;
- (b) in subsection 2(b), by repealing the figure “\$2” and substituting the words “half the amount of the basic rate.”; and
- (c) in subsection 3(a), -
 - (i) by inserting a “full stop” after the word “resident” in the fifth line; and
 - (ii) repealing all the words thereafter.
- (d) by repealing subsection (3)(b) and substituting the following -

“(3)(b) Any person temporarily resident in the area of authority of a council shall be liable to pay the basic rate unless a receipt of payment is presented as proof of payment to the council in the area of authority of which such person is a resident.”

- (d) by repealing subsection (4).

Amendment of section 82

37. Section 82 of the principal Act is amended -

- (a) in subsection (2), by inserting a new paragraph (e) as follows -

“(e) lands and buildings belonging to the council and the Republic.”; and

- (b) in subsection (3) by repealing the word “poverty” and substituting the word “hardship”.
- (c) in subsection (3) by adding after the full stop the following -

“In this section, “hardship” means the inability to pay basic rate due to a physical and mental disability, old age, single mother or such other reason as the Council may deem just.”

Amendment of section 85

- 38. Section 85 of the principal Act is amended -
 - (a) (i) in subsection (1) by repealing the words “the proof of which shall lie on the person charged”; and
 - (ii) by repealing “\$100 and” and substituting “not exceeding \$1000 or”.
 - (b) in subsection (2) by repealing “of \$100 and” and substituting “not exceeding \$1000 or”.

Amendment of section 86

- 39. Section 86 of the principal Act is amended by repealing -
 - (a) the words “the proof of which shall lie on the person charged”; and
 - (b) the figure “\$200” and substituting the figure “not exceeding \$2000”.

Amendment of section 87

- 40. Section 87 of the principal Act is amended by repealing the words “\$200” and “6 months” and substituting the words “not exceeding \$2000” and “1 year” respectively.

Amendment of section 88

- 41. Section 88 of the principal Act is amended -
 - (a) in subsection (2) by repealing the words “\$100 and to imprisonment for 6 months” and substituting the words “\$1000 or, in default of payment, to imprisonment for 6 months.”; and
 - (b) in subsection (3) by repealing the figure “\$100” and substituting the figure “\$1000”.

Amendment of section 89

- 42. Section 89 of the principal Act is amended in subsection (2)(a) by inserting the words “or possessions” between the words “property,” and “as”.

Amendment of section 90

43. Section 90 of the principal Act is amended by repealing “\$200 and” and substituting “not exceeding \$2000 or”.

Amendment of section 93

44. Section 93 of the principal Act is amended by inserting the words “or former or retired suitably qualified public servants” between the words “employees” and “one” in the second line.

Amendment of section 96

45. Section 96 of the principal Act is amended by inserting at the end of the proviso clause the words “with special skills or qualification for a particular work or job.”

Amendment of section 97

46. Section 97 of the principal Act is amended by repealing the words “and with the consent of the officer concerned”.

Amendment of section 99

47. Section 99 of the principal Act is amended -

- (a) in subsection (1) by repealing the words “within 3 months” and substituting the words “within a reasonable time”; and
- (b) in subsection (4) by repealing “\$100” and substituting “not exceeding \$1000”.

Amendment of section 101

48. Section 101 of the principal Act is amended in paragraph (c) by repealing the words “gratuities granted” and substituting the words “provident fund contribution”.

Amendment of section 102

49. Section 102 of the principal Act is amended by repealing the words “Subject to section 103, section 104 and section 105 of the Constitution, for the avoidance of any doubt,”.

Amendment of section 103

50. Section 103 of the principal Act is amended -

- (a) in the title heading by repealing the words “pensions, gratuity or other allowances”; and
- (b) by repealing the words “pensions, gratuity or other” in the first line and substituting the words “provident fund”; and

- (c) deleting the “colon” after the word “whatsoever” at the end and substituting a “comma”; and
- (d) inserting the words “except as provided under the Provident Fund Ordinance.” at the end of the first paragraph before the proviso.

Amendment of section 104

51. Section 104 of the principal Act is amended by repealing the whole section and substituting the following -

“104. Any matter, thing, done or contract entered by a council through -

- (a) an officer or employee of a council, or
- (b) other person acting under the direction of a council,

was done bona fide for the purposes of this Act shall not subject an officer or employee or other person directed by the council personally to any action, liability, claim or demand whatsoever.”

Amendment of section 107

52. Section 107 of the principal Act is amended by repealing the whole section and substituting the following -

“107. In any prosecution by or on behalf of a council and in any civil cause or matter in which a council is a party, the council may be represented by any member, officer, employee, or other legal representative duly authorised in that behalf by the council.”

Amendment of section 112

53. Section 112 of the principal Act is amended by -

- (a) repealing the word “servant” in the first line and substituting the word “employee”;
- (b) inserting the words “councils area of authority” appearing in the fourth line between the words “the” and “area”; and
- (c) repealing the words “area in which such council is established” appearing in line 4.

Amendment of section 114

54. Section 114 of the principal Act is amended in -

- (a) subsection (1)(c) by repealing the words “public body” and substituting the words “government owned company”;
- (b) subsection (4) by repealing -
 - (i) the words “unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal”;

- (ii) “\$20” and substituting “not exceeding \$1000”; and
- (iii) “6 weeks” and substituting “6 months”.

Amendment of section 116

55. Section 116 of the principal Act is amended in -

- (a) subsection (1) by repealing -
 - (i) “\$20” and substituting “not exceeding \$1000”;
 - (ii) “6 weeks” and substituting “6 months”; and
 - (iii) “\$2” and substituting “\$5”;
- (b) subsection (2), by inserting the words “and assets” between the words “fund” and “of”.

Amendment of section 117

56. Section 117 of the principal Act is amended by -

- (a) inserting the words “under this Act” between the words “officer” and “which”; and
- (b) repealing the word “servant” appearing in the fourth line and substituting the word “employee”.

Amendment of section 118

57. Section 118 of the principal Act is amended in subsection (3) by repealing the words “Minister whose decision is final” and substituting the words “magistrates’ court”.

Amendment of section 119

58. Section 119 of the principal Act is amended in -

- (a) paragraph (a) by repealing the word “servant” and substituting the word “employee”; and
- (b) the last paragraph by repealing -
 - (i) “\$50 and” and substituting “not exceeding \$1000 or”; and
 - (ii) “3 months” and substituting “6 months”.

Amendment of section 120

59. Section 120 of the principal Act is amended by repealing “\$2” and substituting “not exceeding \$100”.

Amendment of section 122

60. Section 122(1) of the principal Act is amended in subsection by repealing the following -

- (a) “\$20” and substituting “not exceeding \$1000”;
- (b) “6 weeks” and substituting “6 months”; and
- (c) “\$2” and substituting “\$5”.

Amendment of section 123

61. Section 123 of the principal Act is amended by inserting the words “or councils” between the words “council” and “for” in the third line.

Inserting new section 126

62. A new section 126 is inserted as follows -

“Jurisdiction of Magistrates Court

126. The Magistrates Court shall have jurisdiction to try offences under this Act.”

63. Transitional provisions

(1) Within three months of the entry of this Act, steps shall be taken under this section to dissolve all Councils in Kiribati, so as to standardize the terms of office of the elected members of such Councils.

(2) Notwithstanding the provisions of section 10 of the principal Act as it was in force immediately prior to the entry into force of this Act, the Minister, acting in accordance with advice of the Cabinet, shall, by notice published in the *Gazette*, appoint a date on which the Council or councils specified in the notice shall stand dissolved.

(3) A notice under subsection (2) shall have effect as if the date specified in the notice was the fourth anniversary of the election of the Council.

THE LOCAL GOVERNMENT (AMENDMENT) ACT 2006

EXPLANATORY MEMORANDUM

When the Local Government Act was passed in 1984, it was to amend substantially the Ordinance then existing by way of repealing it and substituting the new Act. Twenty years has since passed and although there have been several amendments to the existing Act, they are not as substantial as that contained in this Bill. The amendments came about from the review preceding the drafting of this Bill and after holding consultative meetings with officials of island councils.

Section 2 deals with the interpretation of words and phrases, by deleting some and defining and redefining some.

Section 4 amends section 9 by adding a qualification for election to a council to the one already existing which is that a person has to attain 21 years of age. The amendment also deletes certain qualification criteria, and replacing them as new paragraphs (d) and (e) referring to criminal conviction and mental incapacity respectively.

Section 5 amends section 10 to put the term of office of elected members strictly to 4 years, cancelling the rotational membership.

Section 6 amends section 12 by inserting an additional ground for a nominated member's seat to fall vacant, that is, if he/she fails to attend 2 consecutive meetings without the permission of the Council.

Section 8 amends section 15 by adopting the national model approach for electing the Tiibi Kauntira. The Tiibi Kauntira or his Kauoman can be removed by two-thirds of the elected members.

Section 9 inserts a new section 16A dealing with a No Confidence Motion, to be moved after the Tiibi has been in office for 18 months and the motion be moved and voted upon by the elected members only.

Section 11 inserts a new clause 17A dealing with the expiration of term of the council and empowering the Clerk to exercise a limited power of the Council in the interim.

Section 13 amends section 20 dealing with convening of meetings of the council to be restricted to elected members only.

Section 15 amends section 24 restricting the voting on acts and matters of the Council to elected members only. Although the Council is comprised of various members – elected, ex-officio, special and nominated, only elected members can vote on matters or acts to be done by the Council.

Section 17 amends section 33 to put a limit on the membership of the Area Committee to 5, 3 of whom shall be council members.

Section 23 amends section 49 by inserting a new subsection making it clear that the Tiibi Kauntira shall act in time of emergencies in accordance with the action plan of the Council.

The Council is expected to develop its own action plan, and the report of the emergency shall be made to the Minister and to the Minister responsible for disaster management.

Sections 24 amends section 50 dealing with bye laws. The penalty is increased to a fine not exceeding \$10,000, and a penalty is increased to a fine not exceeding \$2,000 per day. This should not cause alarm. The Council is now given a discretion to insert under its byelaws penalties that range from 0 to \$10,000. The same concept applies to penalties.

Section 28 amends section 63 to make it more readable and to extend the scope of the contents of the Financial Instructions.

At section 36, a new subsection 3(b) is proposed to be inserted in section 80 to compel any person temporarily residing in a council's area of authority to pay basic rates unless he or she can prove that he has already paid such basic rates to another council.

Section 37 amends section 82 by exempting at subsection (2) lands and buildings belonging to the council and the Republic from assessment and rating under the Act. The word "poverty" is replaced by "hardship" in subsection (3).

Section 44 amends section 93 to include retired experienced public servants or those with relevant local government administrative experience to be appointed as Clerks to island councils.

Section 51 reconstructs the present section 104 to protect an officer or employee of the council or any other person acting under the direction of the council from matters done bona fide.

Section 57 amends section 118 dealing with determination of age by the rate collector and replaces the Minister with the magistrates court as a forum for determination of grievances from those aggrieved by a determination of a rate collector.

Section 62 empowers the magistrates court to try offences under this Act.

Titabu Tabane
Attorney-General
7 November 2005