BUILDING ACT 2024

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THE REPUBLIC OF KIRIBATI

(No. 04 of 2024)

I assent,

Beretitenti

20 /05/ 2024

An ACT

entitled

AN ACT TO REGULATE BUILDING WORK AND FOR OTHER CONNECTED PURPOSES

Commencement date:

_____ 2024

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 *Kiribati Building Act 2024.*

2. Commencement

This Act commences on a date to be appointed by the Minister by notice.

3. Interpretation

In this Act, unless the context otherwise requires—

"Act" means the *Kiribati Building Act 2024*;

"approval authority" means the Minister or a delegate of the Minister or a person or body appointed under section 34;

"building" means a structure on or attached to land, the lagoon bed or the sea bed, including—

(a) an addition to a building;

(b) a structure attached to a building;

(c) a sanitation system; and

(d) part of a building.

"Building Code" means the Kiribati Building Code made under section 11;

"building practitioners" means a person who engages in the construction of buildings for profits such as architects, quantity surveyors, building and trades professionals;

"building work" means any work of a structural nature to a building, including excavation for foundations, sanitary installations, plumbing and demolition;

"Board" means the Building Practitioners and Engineers Registration Board as established in section 27;

"class of use" means a class of use specified in the Building Code;

'designated building" means the buildings designated by the Minister as classified in the Kiribati Building Code;

"exempt structure" means a structure which is prescribed by the Regulations to be an exempt building;

"exempt building work" means construction of, maintenance to or repair of an exempt structure;

"minor repairs" has the meaning given to it in the Regulation;

"Ministry" means the Ministry responsible for building infrastructure;

"owner" means anyone who has the legal or rightful title to the land, property or building or Government Ministries and State-Owned Enterprises carrying out building or building work under the respective projects;

"prescribed" means prescribed by the Regulations;

"registered building practitioner and engineer" means a building practitioner and engineer who has been registered under section 30;

"Regulations" means Regulations made under this Act; and

"strict liability" in relation to an offence means that no mental element need be proved to establish the offence, and the defence of honest and

reasonable mistake of fact, as well as other defences, are not available to the accused.

4. Objects of the Act

The objects of this Act are to—

(a) improve the quality of building work, encourage better building design and ensure that building construction standards are responsive, adaptive and suitable to the nation's needs;

(b) establish and maintain a system of registration of building practitioners and engineers in order to—

(i) better achieve the objects of this Act;

(ii) upscale the capability of Kiribati's building industry, enabling it to compete effectively for larger scale and more demanding building projects; and

(iii) facilitate the participation of building practitioners and engineers in the building approval process;

(c) establish building standards which are appropriate to the category of building to be constructed;

(d) provide for the making of home building guidelines to assist owners to obtain building permits quickly and cheaply, and

(e) improve building work, encourage better building design and ensure that building construction standards are responsive, adaptive and suitable to the nation's needs.

5. Application of this Act

This Act applies to South Tarawa, Kiritimati and any designated buildings in the outer islands.

Part II — ADMINISTRATION OF THIS ACT

6. Minister responsible for building infrastructure

(1) This Act shall be administered under the direction and control of the Minister responsible for building infrastructure.

(2) The Minister may delegate in writing to officers within the Ministry—

(a) the administration of this Act; and

(b) powers, duties and functions conferred by this Act.

7. Functions of the Ministry

The functions of the Ministry include—

(a) providing advice to the Minister in relation to the Building Code, including—

(i) the administration of the Building Code;

(ii) the scope of the Building Code;

(iii) compliance with the Building Code; and

(iv) periodic review and amendment of the Building Code;

(b) providing advice to the Minister in relation to section 27; and

(c) assisting building practitioners, land owners, building occupiers and others to comply with the Building Code, including publication of manuals and guides.

PART III —SAFETY OF BUILDINGS AND BUILDING WORK

8. Buildings to be structurally sufficient, safe, accessible and stable

(1) The owner of a building must ensure that the building—

(a) is structurally sufficient, safe, accessible and stable for its intended use; and

(b) does not pose a hazard to persons or property; and

(c) be designed for resilience to climate change and disaster risks.

(2) An offence against subsection (1) is a strict liability offence.

9. Compliance with standards for construction materials

(1) All construction materials locally sourced and imported in Kiribati must comply with the required standards prescribed by the Regulation under this Act.

(2) The Ministry must develop acceptable standards for construction materials locally sourced and imported into Kiribati.

10. Carrying out of building work

(1) Building work must be carried out—

(a) in accordance with the Building Code and

(b) in a proper, skilful and safe way.

(2) A person must not carry out building work, or cause or allow building work to be carried out, contrary to subsection (1).

(3) An offence against subsection (2) is a strict liability offence.

PART IV — KIRIBATI BUILDING CODE AND KIRIBATI BUILDING MANUAL

11. Kiribati Building Code

(1) The Minister, acting in accordance with the advice of the Cabinet, may make a Kiribati Building Code.

(2) The purpose of a Building Code is to establish a uniform set of minimum standards and technical provisions for the design, construction and performance of buildings and other structures as prescribed in the Regulations.

(3) The Building Code may provide for structure, fire resistance, access and egress, services and equipment, energy efficiency and aspects of health and amenity.

(4) In making the Building Code, the Minister must take into consideration the principles that the Building Code should—

(a) extend no further than is necessary in the public interest; and

(b) be cost-effective;

(c) not be needlessly onerous in its application; and

(d) be easily understood.

(5) The Minister may, acting in accordance with the advice of the Cabinet, amend or revoke a Building Code.

(6) The Minister must publish a notice in the *Gazette* that a Building Code has been made, amended or revoked.

(7) The Ministry must ensure that a copy of the Building Code (incorporating any amendments) is available for download from an appropriate website.

12. Incorporation of standards

(1) The Building Code may incorporate building standards, whether as made or as amended from time to time.

(2) Unless otherwise specified, a reference in the Building Code to building standards means those standards as in force from time to time.

(3) In this section—

building standards means documents, established by a consensus of subject matter experts and approved by a recognised body, that provide guidance on the design, use or performance of materials, products, processes, services, systems or persons;

recognised body includes a national, regional or international standards developing organisation.

13. Kiribati Building Manual

(1) The Ministry may make a Kiribati Building Manual as an accompanying document to the Building Code.

(2) The purpose of the Kiribati Building Manual is to provide a non-legally binding pathway to comply with this Act and the Building Code.

(3) The Ministry must make the Kiribati Building Manual available for download from the internet.

(4) The Ministry may also make and publish other manuals and guides to assist building practitioners, land owners, building occupiers and others to comply with this Act and the Building Code.

14. Forms

(1) The Ministry must establish forms for the purposes of this Act and the Regulations.

(2) The Ministry must make forms for use by members of the public available for download from the internet.

PART V — BUILDING PERMITS

15. Requirement for a building permit

(1) Except as provided in section 16, a person must not carry out building work unless a building permit in relation to the work has been issued and is in force.

(2) A person must not carry out building work unless the work is carried out in accordance with the conditions of the building permit applying to that work.

(3) The owner of land must ensure, in relation to any building work that is carried out on the land, that a building permit has been issued and is in force.

(4) Subsection (3) does not apply—

(a) where, as provided in section 16, a building permit is not required; and

(b) to an owner who has engaged a registered building practitioner to carry out the building work.

(5) An offence against this section is a strict liability offence.

16. Circumstances where a building permit is not required

A building permit is not required—

(a) for exempt building work as specified in the Regulations;

(b) for minor repairs as prescribed in the Regulation.

17. Procedure for obtaining a building permit

(1) A person must apply to an approval authority for a building permit in relation to land if the person is—

(a) the owner of the land;

(b) the lawful occupier of the land;

(c) the purchaser of the land; or

(d) a building practitioner engaged in writing by the owner, lawful occupier or purchaser to carry out the proposed building work.

(2) An application must be made in accordance with the Regulations.

(3) Any application with an estimated cost of building work of $200,000 or more, a sustainability report as prescribed in the Regulations is required.

(4) The Minister may waive or reduce any fees as prescribed in the Regulations.

(5) The Regulations may prescribe fees and charges payable by the applicant(s) or owner in relation to a building permit application, including—

(a) application fees; and

(b) processing fees and charges (including a charge to compensate the approval authority for the cost of obtaining advice, assessment or information in relation to the proposed building work).

(6) An applicant must not make a false or misleading statement in the application.

18. Certification

(1) The form of application for a building permit must require certification by a suitably qualified person in relation to—

(a) the building permit application;

(b) documents submitted with the application; or

(c) compliance with standards relevant to the proposed building work.

(2) A person must not provide a certification which is false or misleading.

19. Consideration of a building permit application

(1) An approval authority must consider a building permit application in accordance with the Regulations.

(2) If required by the Regulations, the approval authority must refer the application to referral authorities for their consideration and comment.

(3) The approval authority may—

(a) require an applicant to provide supporting additional information in relation to the application; and

(b) suggest that the applicant make amendments to the application or supporting documents.

(4) The approval authority is not required to take further action in relation to an application unless the applicant—

(a) has supplied the supporting additional information; and

(b) has amended the application or supporting documents as required, or in writing, has declined to make the amendments.

20. Decision by the approval authority

(1) An approval authority must consider an application and decide whether to grant a building permit.

(2) The approval authority must—

(a) consider whether the proposed building works comply with this Act and the Building Code; and

(b) take into consideration any relevant response by a referral authority.

(3) If the approval authority decides that the proposed building works do not comply with this Act and the Building Code the authority must reject the application.

(4) If the approval authority decides that the proposed building works comply with this Act and the Building Code, the authority may issue a building permit.

(5) If the approval authority rejects an application the authority must notify the applicant in writing of the decision and the reasons for it.

21. Building permit conditions

(1) A building permit is subject to the following conditions—

(a) the building work must comply with the Building Code;

(b) the building work must conform to the description set out in the building permit application;

(c) the building work must comply with the approved plans;

(d) the building work and the proposed structure must comply with requirements imposed by law; and

(e) any other conditions specified in writing by the approval authority, including—

(i) conditions which address concerns raised by a referral authority;

(ii) conditions relating to the conduct of the works; and

(iii) conditions relating to the proposed structure.

(2) A building permit must not include a condition that is inconsistent with the Building Code.

22. Validity period

A building permit is valid for a period of one year but may be extended by an approval authority in accordance with section 23.

23. Extension or variation of a building permit

(1) The holder of a building permit must apply in writing to an approval authority for—

(a) an extension of the period of the building permit; and

(b) variation to the conditions of the building permit.

(2) The application must be made in accordance with the Regulations and must be accompanied by the prescribed fee.

(3) The approval authority must follow the procedure set out in section 20 in considering an application under this section.

(4) If the approval authority grants the application it must notify the applicant in writing of its decision.

(5) If the approval authority rejects the application it must notify the applicant in writing of its decision and the reasons for it.

PART VI — BUILDING WORKS

24. Building inspections

(1) The holder of a building permit must apply to an approval authority for an inspection of the building work prior to each of the construction stages requiring inspection as specified in the Regulations.

(2) A prescribed fee is payable for an inspection by a building inspector.

(3) A building inspector may, following inspection and after obtaining the approval or clearance from the approval authority issue an inspection certificate certifying that building works are in compliance with this Act, the Building Code and conditions of the building permit.

(4) An approval authority may accept an inspection certificate as establishing compliance.

(5) If the building inspector finds that the work is not in compliance with this Act, the Building Code and the conditions of the building permit, the inspector must notify the approval authority in writing of the finding.

25. Completion certificate

(1) A building inspector must ensure that the building work complies with the Building Code.

(2) A building inspector, after being satisfied that subsection (1) complied with, must obtain the approval or clearance from the approval authority before issuing the completion certificate.

(3) An approval authority may—

(a) accept the completion certificate as evidence that the building works have been completed in compliance with the Building Code; or

(b) take action to satisfy itself that the building work has been completed in accordance with the Building Code and the building permit.

26. Certificate of occupancy

(1) It is an offence against this Act if a person, being the owner or occupier of a building—

(a) uses, or permits the use, of the building other than as permitted by a certificate of occupancy; or

(b) fails to comply with the conditions of the certificate of occupancy applying to the building.

(2) An approval authority may issue a certificate of occupancy—

(a) if it has received a completion certificate and is satisfied that the building complies with the Building Code; or

(b) on application by the owner of a building.

(3) A certificate of occupancy—

(a) must specify the class or classes of use for which the building may be used;

(b) may be issued for a fixed term; and

(c) is subject to the following conditions—

(i) the building must not be used other than for a use permitted for that class or those classes of building; and

(ii) any other conditions which are prescribed by the Regulations or specified in the certificate of occupancy.

(4) The owner or occupier of a building may apply to an approval authority for amendment of the certificate of occupancy—

(a) to alter the class or classes of use permitted for that building;

(b) to amend or delete a condition to which the permit is subject; and

(c) to extend the term of the certificate of occupancy.

PART VII —ESTABLISHMENT AND FUNCTIONS OF THE BUILDING PRACTITIONERS AND ENGINEERS BOARD

27. The Building Practitioners and Engineers Registration Board

(1) The Building Practitioners and Engineers Registration Board is hereby established.

(2) The functions of the Board are to—

(a) register qualified building practitioners and engineers;

(b) facilitate and encourage the continuous professional development of registered building practitioners and engineers;

(c) establish codes of conduct for building practitioners and engineers; and

(d) advise the Minister on issues relating to building practitioners and engineers and the provision of building services in Kiribati.

28. Membership, duties and procedures of the Board

(1) The Board shall comprise five members consisting of a Chairperson and other members appointed by the Minister in accordance with the Regulations.

(2) Subject to the Regulations the Board may determine its own procedure.

(3) A member of the Board—

(a) must comply with prescribed requirements in relation to—

(i) a register of interests; and

(ii) conflicts of interests;

(b) is entitled to sitting allowances and expenses as prescribed by Regulation.

(4) The Division responsible for the implementation of this Act shall be the Secretariat.

29. Application for registration

(1) A qualified person intending to practice may apply to the Board for registration.

(2) The application shall be in the prescribed form and shall have all the required documents prescribed in the Regulation.

(3) The application with the required documents must be delivered to the Ministry registry within the time and manner specified in the Regulation.

30. Registration of building practitioners and engineers

(1) The Board must—

(a) register building practitioners and engineers; and

(b) determine the minimum qualifications for a person to be a registered building practitioner and engineer.

(2) In deciding whether to grant registration, the Board must take into consideration—

(a) whether the person has the prescribed minimum qualifications to be a registered building practitioner and engineer;

(b) whether the person is of good character; and

(c) under this section, good character means reputation for right conduct or ethical professional practice.

(3) The Ministry must keep and maintain a register of registered building practitioners and engineers.

31. Continuing professional development

(1) The Board may, in accordance with the Regulations, specify standard requirements for the continuing professional development of registered building practitioners.

(2) The Board may—

(a) refuse to renew the registration of a building practitioner if the person has failed to undertake continuing professional development in accordance with the Regulations; and

(b) take into consideration, when deciding whether to suspend or cancel a person's registration as building practitioner, whether the person has undertaken continuing professional development.

(3) The Ministry must cause the same to be removed from the register.

32. Suspension and revocation of registration

(1) The Board may suspend or revoke a person's registration if—

(a) the person has made a false or misleading statement in the person's application for registration;

(b) the Board considers that the person is not qualified to retain registration; and

(c) the person has requested the Board to do so.

(2) The Board must advise the person in writing of a decision under this section and the reasons for it.

(3) The Ministry must cause the same to be removed from the register.

33. Offences for building practitioners and engineers

(1) Any person who falsely represents himself or herself that he or she is a registered building practitioner or engineer commits an offence.

(2) A registered building practitioner or engineer who recklessly or negligently carries out his or her duty unprofessionally or fails to comply with the building standard that leads to injury or death of a person or cause harm to a property commits an offence and shall be liable under section 46.

PART VIII — APPOINTMENTS, FUNCTIONS AND POWERS

Division 1 — Approval Authorities

34. Approval authorities

(1) The Minister is an approval authority.

(2) The Minister may appoint as approval authorities—

(a) local governments or

(b) eligible persons.

(3) A person is eligible to be appointed to be an approval authority if the person—

(a) has registered as a building inspector; and

(b) has given written consent to the Minister for the appointment.

Division 2 — Building Inspectors

35. Building inspectors

(1) A registered building practitioner and engineer may apply to the Minister for appointment to be a building inspector based on the advice of the Ministry.

(2) The Minister may, in instrument in writing, appoint persons to be building inspectors.

(3) The Ministry must keep a register of building inspectors.

36. Functions and powers of a building inspector

(1) The functions of a building inspector are—

(a) to inspect buildings (including existing buildings);

(b) to inspect the construction of buildings;

(c) to provide his or her thorough report on the inspection carried out and such report must be made available by the Ministry to the owner of the building concerned upon request; and

(d) to provide justification report before issuing any of the compliance notices.

(2) A building inspector may conduct an inspection—

(a) when an inspection is required by this Act or the Regulations;

(b) when requested to do so by an approval authority; and

(c) of the building inspector's own motion, for the purpose of this Act.

(3) An inspection must be conducted in accordance with the Regulations.

(4) A building inspector has the following powers when conducting an inspection—

(a) to require a person to provide the person's name and address;

(b) to examine and search the premises and any equipment, structures or other items on the premises; and

(c) to take photographs and other recordings.

(5) A building inspector may, orally or in writing, require a person—

(a) to answer questions; and

(b) to provide information or records.

(6) It is an offence for a person to obstruct a building inspector in carrying out his duties under this Act by means of—

(a) refusing to provide his/her name and address when required by a building inspector at the time of inspection;

(b) refusing or failing to answer questions or to provide information or records required under this section; and

(c) directly or indirectly offer, agree to give or give a building inspector an unlawful reward or payment.

(7) A person commits an offence if that person—

(a) is a building inspector; and

(b) directly or indirectly asks for, agrees to take or takes a reward or payment for his or her work while carrying out the functions of a building inspector.

37. Search warrant

(1) This section does not limit the powers conferred by section 36.

(2) A building inspector who believes on reasonable grounds that a contravention of this Act has occurred or is likely to occur on any premises may apply to a magistrate court, for a search warrant in relation to the premises concerned

(3) That inspector shall provide supporting documents and evidence in support of the application.

38. Protection of building inspector and assisting persons

No criminal or civil proceeding shall lie against a building inspector, or any person assisting a building inspector, for any act done in good faith.

39. Suspension and cancellation of appointment

The Minister may suspend or cancel the appointment of a person to be a building inspector if satisfied that—

(a) a material misrepresentation was made in an application for appointment; or

(b) the person has failed to perform the functions of building inspector diligently or competently.

PART IX — COMPLIANCE AND ENFORCEMENT

40. Stop work notice

(1) A building inspector after consultation with the Minister may serve a stop work notice on the holder of a building permit if it appears that—

(a) a contravention of the Acts has occurred.

(b) unless work is stopped—

(i) a contravention of this Act, the Building Code or a condition of the building permit is occurring or will occur; or

(ii) examination of the site for compliance with the Act, Building Code or a condition of the building permit will be rendered difficult or impossible; or

(c) it appears that the building permit was issued on the basis of a false or misleading representation as a result of which revocation or amendment of the permit should be considered.

(2) The holder of a building permit must comply with a stop work notice.

(3) Failure to comply with the stop work notice is an offence and the holder of the permit shall be penalized under section 46.

41. Notice to make good

(1) A building inspector may issue a notice to make good with the approval of the Minister to a building owner or the holder of a building permit if it appears that—

(a) the building is—

(i) not structurally sufficient, safe and stable for its intended use and purpose;

(ii) poses a hazard to persons or property; or

(b) work on a building site violates this Act, the Building Code, the building permit or a condition of the building permit.

(2) A person who has been served with a notice to make good must ensure that the notice is complied with no later than the date specified in the notice.

(3) The notice to make good must identify the action necessary to bring the building or the work into compliance.

(4) A notice to make good does not suspend any construction of the building that is unrelated to the work specified in the notice.

(5) A person to whom a notice to make good has been served may apply to an approval authority for a reinspection.

(6) After a re-inspection has been conducted, the approval authority may cancel the notice to make good if it is satisfied that the notice to make good has been complied with.

42. Infringement notice

(1) A building inspector may serve an infringement notice on a person with the approval of the Minister if it appears that the person has committed an offence against this Act or the Regulations.

(2) An infringement notice must specify—

(a) the offence which it is alleged that the person has committed; and

(b) that, if the person does not wish to have the matter determined by a court, the person may pay the prescribed penalty for the offense within the timeframe specified in the notice to the Ministry.

(3) If the prescribed penalty is paid within the time specified in the notice, no person is liable to any further proceedings for the alleged offence.

(4) Payment of the prescribed penalty is not to be regarded as an admission of liability and does not affect any civil proceeding arising out of the same occurrence.

(5) Except as provided by subsection (3), this section does not limit the operation of any other provisions of this Act or the Regulations relating to proceedings that may be taken in respect of offences.

43. Suspension of a building permit

(1) An approval authority may suspend a building permit if it is satisfied that the nature of any non-compliance with this Act, the Building Code or a condition of the building permit gives sufficient cause for concern about health or safety.

(2) In deciding whether to suspend a building permit an approval authority must take into consideration—

(a) any report by a building inspector relevant to the decision; and

(b) whether a notice to comply has been issued, and, if so, whether the notice was complied with.

(3) As soon as practicable after deciding to suspend a building permit an approval authority must serve on the holder of the building permit a notice of suspension which sets out—

(a) a statement that the building permit has been suspended, and that all work to which the building permit applies must immediately cease; and

(b) a statement of the reasons for the decision.

(4) The approval authority may cancel a suspension notice if it considers that it is safe to do so.

44. Cancellation of a building permit

(1) An approval authority may cancel a building permit if it considers that it is not possible for the construction to continue in compliance with the building permit.

(2) In deciding whether to cancel a building permit an approval authority must take into consideration—

(a) any report by a building inspector relevant to the decision; and

(b) whether a notice of suspension has been issued, and, if so, whether the grounds for that notice continue to apply.

(3) As soon as practicable after deciding to cancel a building permit an approval authority must serve on the holder of the building permit a notice of cancellation which sets out—

(a) a statement that the building permit has been cancelled, and that all work to which the building permit applies must immediately cease;

(b) a statement of the reasons for the decision; and

(c) a statement that the holder of the building permit may appeal against the decision within the prescribed time.

45. Injunctions

(1) If a person has contravened, is contravening, or proposes to contravene this Act, any person may apply to a court for an injunction.

(2) If the court is satisfied that a person has, is, or proposes to contravene this Act, the court may grant an injunction—

(a) restraining the person from engaging in conduct which would constitute a contravention of this Act; or

(b) requiring the person to do an act which, if not done, would constitute a contravention of this Act.

(3) Before deciding an application under this section, the court may grant an interim injunction—

(a) restraining a person from engaging in conduct; or

(b) requiring a person to do an act.

(4) On application, a court may discharge or vary an injunction or interim injunction.

(5) The conferral of powers by this Act does not limit any other powers of the court.

46. General Penalty

(1) A person or body corporate who commits an offence under this Act is liable to a penalty—

(a) if a person is an individual— imprisonment not exceeding two years or a fine not exceeding $10,000 or both; or

(b) a corporate— a fine not exceeding $100,000.

(2) If a body corporate contravenes any provision of this Act, each person who is a director of the body corporate or who is concerned in the management of the body corporate is taken to have also contravened the provision unless the person satisfies the court that—

(a) the body corporate contravened the provision without the actual, imputed or constructive knowledge of the person;

(b) the person was not in a position to influence the conduct of the body corporate in relation to its contravention of the provision; or

(c) the person must use all due diligence to prevent the contravention by the body corporate.

(3) A person to whom subsection (2) applies may be proceeded against and convicted of an offence against this Act whether or not the body corporate has been proceeded against or convicted.

(4) In proceedings under this Act, evidence that an officer, employee or agent of a body corporate (while acting in as such) had at any particular time a particular mental state is evidence that the body corporate had that mental state.

47. Defences

(1) It is a defence to a prosecution under this Act that —

(a) the conduct giving rise to the offence was authorised or required by—

(i) a building permit or a document forming part of that permit; or

(ii) a direction or request of a building inspector; or

(iii) a compliance notice;

(b) the person being prosecuted—

(i) did not knowingly or intentionally cause or allow the offence; and

(ii) could not reasonably have known that the offence was occurring; or

(c) the conduct giving rise to the offence was reasonably necessary to deal with an emergency involving a serious threat to human life or property.

(2) The accused has the responsibility of establishing a defence under subsection (1) by adducing or pointing to evidence that suggests a reasonable possibility that the defence exists.

(3) If a defence is established, the prosecution shall disprove the defence beyond reasonable doubt.

(4) A person accused of committing an offence against this Act shall, no less than 14 days before the appointed day of hearing, notify the prosecution of an intention to rely on a particular defence specified in this Act.

PART X — MISCELLANEOUS

48. Jurisdictions of the Courts

The offences under this Act are triable in the applicable Court's jurisdiction.

49. Review of the decision of the Board

(1) Any person aggrieved by the decision of the Board may apply to the Court for a review of its decision.

(2) The Court may;

(a) affirm the decision; or

(b) vary the decision and substitute the decision; or

(c) overturn the decision and make another decision; or

(d) remit the decision to the Board to make a decision on the basis of the Court's reasoning.

(3) A decision of a Court under this section is final.

50. Regulations

(1) The Minister, acting in accordance with the advice of the Cabinet, may make Regulations for the implementation of this Act.

(2) Regulations made under this Act may prescribe penalties for fees, forms, procedures and processes and any other matters deemed necessary for the implementation of this Act.

51. Repeal of the Building Act 2006

(1) The Building Act 2006 is repealed.

(2) A building approval which is current immediately before the commencement of this Act is deemed to be a building permit given under this Act.

52. Transitional provisions – existing IL 4 and existing buildings generally

(1) In this section ***existing IL 4 building*** means a building or structure in existence immediately before the commencement of this Act that is designated in the Building Code as importance level 4.

(2) An owner of land must ensure that any existing IL 4 building on the land is assessed and upgraded to the degree necessary to comply with all Building Code performance requirements no later than 1 January 2034.

(3) In this section—

"existing building" means a building or structure in existence immediately before the commencement of this Act, including a building referred to in subsection (1).

"significant alteration" means a significant alteration within the meaning of the Building Code.

(4) An owner of land must ensure that an existing building on the land complies with all Building Code performance requirements when one or more of the following occurs—

(a) the class of use changes;

(b) the importance level changes;

(c) the building complexity changes; and

(d) there is a significant alteration of the existing building.

KIRIBATI BUILDING ACT 2024

EXPLANATORY MEMORANDUM

This Act revises the law relating to the construction and occupation of buildings in the South Tarawa, Kiritimati and any other designated buildings in the outer islands.

Part I provides for the Act to come into operation on a date to be appointed by the Minister. This should be read with the transitional provisions in Part X of the Act. Also in Part I are definitions for the purposes of the Act. The Act applies to construction of "buildings" and "structures" covered under the Regulations. Regulations made under the Act will also specify building work and other structures which are to be exempted from the requirement for a building permit.

Part II deals with administration of the Act. It includes a statement of the responsibilities of the Minister and the functions of the Ministry. A function of the Ministry will be to assist building practitioners, land owners and others to comply with the Building Code, including publication of a Kiribati Building Manual.

Part III requires building owners to ensure that their buildings are structurally sufficient, safe, accessible, climate resilient and stable for their intended use and for building work to be carried out in a proper, skilful and safe way. The Act further require compliance with acceptable standards for construction materials locally sourced and imported into Kiribati.

Part IV provides for the making of a Kiribati Building Code. The purpose of the Building Code is to establish a uniform set of minimum standards and technical provisions for the design, construction and performance of buildings and other structures. It also provides for the Ministry to make a Kiribati Building Manual as an accompanying document, with the purposes of providing a pathway to comply with the Act and the Building Code.

Part V imposes the requirement that a building permit be obtained before any building works are carried out. An obligation is imposed on the owner of the land to ensure that this occurs. The procedure for obtaining a building permit will be set out in Regulations, and the Ministry is to establish appropriate forms and make these available for download from the internet. The application form may require that application and accompanying plans be certified. Initially, certification will be by an appropriately qualified person. After an initial period, certification will be required by an appointed building certifier. The fees for building permit applications will be prescribed. Where the approval authority seeks expert advice about aspects of the application, the cost of this advice will be charged to the applicant.

Part VI deals with building works, including building inspections, the issuing of a completion certificate and occupation of the building following the issuing of a certificate of occupancy.

Part VII sets out new provisions intended to upgrade the quality of the building industry in Kiribati. The Act establishes a Building and Engineers Registration Board, which will be tasked with the registration of building professionals. The

Board will be empowered to refuse registration to persons who do not have the required qualifications or are not of good character. The Board will oversee the continuing professional development of registered building professionals and issue codes of conduct.

Part VIII provides for appointments for the purposes of the Act.

Part IX deals with compliance and enforcement. While the Act continues to impose heavy penalties for non-compliance, it enables enforcement action to be taken where less severe intervention is appropriate such as the issue of stop work notices, notices to make good and infringement notices. Infringement penalties will be prescribed by the Regulations. In more severe cases, there is provision for suspension and cancellation of building cases as well as court-issued injunctions. The Part also continues provision in relation to the prosecution of offences.

Part X contains miscellaneous provisions. These include the repeal of the *Building Act 2006* and several transitional provisions. For existing buildings, upgrading to comply with the Building Code will be introduced in stages. An existing "importance level 4" building will need to be assessed and upgraded by 1 January 2034. For all buildings compliance with Building Code performance requirements will be required at the time of a significant alteration occurring.

Honorable Willie Tokataake

Minister for Infrastructure and Sustainable Energy

LEGAL REPORT

I hereby certify that in my opinion none of the provisions of this Act conflicts with the Constitution and that the Beretitenti may properly accent to the Act.

Pauline Beiatau

Ag Attorney General

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression of the Kiribati Building Act 2024 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 25th 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

CERTIFICATE OF THE SPEAKER OF THE MANEABA NI MAUNGATABU

I certify that the above Act was on the 25th April 2024 passed by the Maneaba ni Maungatabu on a Certificate of Urgency under section 68(3)(a) of the Constitution.

.....

Hon. Tangariki Reete
Speaker of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this ..... day of ..... 2024.

.....

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