

# REPUBLIC OF KIRIBATI



## Financial Supervisory Authority of Kiribati Act 2021

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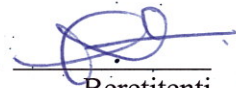
THE REPUBLIC OF KIRIBATI



(No 17 of 2021)



I assent,

  
Beretitenti  
12 / 12 / 2021

An Act

entitled

**AN ACT TO ESTABLISH THE SUPERVISORY AUTHORITY FOR  
FINANCIAL INSTITUTIONS IN KIRIBATI AND FOR CONNECTED  
PURPOSES**

Commencement date  
/ / 2021

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

**Part 1  
Preliminary**

- 1 Title**  
This Act is the *Financial Supervisory Authority of Kiribati Act 2021*.
- 2 Commencement**  
This Act comes into force on a date appointed by the Minister by notice.



**3 Interpretation**

In this Act, unless the context otherwise requires,—

**Authority** means the Financial Supervisory Authority of Kiribati established by **section 4**;

**Board** means the Board of directors established by **section 12**;

**CEO** means the chief executive officer of the Authority appointed under **section 27**;

**financial institution** has the same meaning as in **section 7(1)** of the Financial Institutions Act 2021;

**Minister** means the Minister for Finance and Economic Development; and

**public officer**, in relation to any person, means the person is in the temporary or permanent employment of the Government.

**Part 2**

**Establishment of Authority**

**4 Financial Supervisory Authority of Kiribati established**

The Financial Supervisory Authority of Kiribati is established.

**5 Purposes of Authority**

The main purposes of the Authority are to—

- (a) promote financial soundness within Kiribati;
- (b) promote the development and efficient operation of the financial system within Kiribati.

**6 Functions of Authority**

(1) The Authority administers the following Acts:

- (a) the Financial Institutions Act 2021;
- (b) the Proceeds of Crime Act 2003; and
- (c) any other Act or regulations related to the purposes of the Authority that the Minister specifies.

(2) The Authority must supervise—

- (a) the operation of the following Acts by giving the financial institutions regulated by those Acts directions on prudential and economic measures:
  - (i) the Kiribati Provident Fund Act 1977;
  - (ii) the Development Bank of Kiribati Act 1986;
  - (iii) the Kiribati Insurance Corporation Act 1981;
  - (iv) any other Acts related to the main purposes of the Authority that the Minister specifies.

- (b) agreements (within the meaning of **section 41**) related to the main purposes of the Authority that are made by financial institutions.

(3) The Authority—

- (a) may, on its own initiative, give the Minister advice relating to the purposes of the Authority or the performance of its functions;



- (b) must give the Minister advice if the Authority considers that any matter is likely to affect the achievement of its purposes or the performance of its functions; and
  - (c) must, on the request of the Minister, give the Minister advice on any matter relating to the purposes of the Authority or the performance of its functions.
- (4) The Authority must exercise any power and carry out any function conferred on it by this Act, or any other Act.

#### **7 Exercise of powers of Minister under other Acts**

- (1) The Authority must exercise any power and carry out any function of the Minister under any other Act relating to financial institutions that the Minister delegates in writing to the Authority.
- (2) The Authority may, with the prior approval of the Minister, in writing, subdelegate the function or power to another person working in, or holding a specified office in, the Authority.
- (3) A delegation or subdelegation under this section must be in writing.
- (4) Subject to any general or special directions given or conditions imposed by the Minister, the person to whom a function or power is delegated or subdelegated may perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if it had been conferred or imposed on the person directly by this Act.
- (5) A person acting under a delegation or subdelegation must, in the absence of proof to the contrary, be presumed to be acting within the terms of the delegation or subdelegation.
- (6) A delegation or subdelegation may be made to a specified person or persons of a specified class, or to the holder or holders of a specified office or specified classes of offices within the Authority.
- (7) A delegation or subdelegation does not affect or prevent the performance of a function or the exercise of a power by the Minister or affect the Minister's responsibility for the actions of a person acting under the delegation or subdelegation.

#### **8 Minister may give directions to Authority**

- (1) The Minister may, after consulting the Board, issue to the Authority written directions of a general nature that the Minister considers necessary or desirable to implement the Government's economic policy.
- (2) The Authority must comply with any directions issued under subsection (1).
- (3) However, subject to subsection (2), sections 22(2)(b), and 23(1), in every other respect the Authority must act independently of the Government.

#### **9 Legal personality of Authority**

The Authority is a body corporate with perpetual succession and is capable of—

- (a) holding real and personal property;
- (b) suing and being sued; and
- (c) otherwise doing and suffering all that bodies corporate may do and suffer.

**10 Authority's budget**

- (1) The Authority must, for each financial year, submit a proposal of its expenditure and revenue to the Ministry of Finance and Economic Development—
- (a) in the course of the Government's annual budget process; and
  - (b) in the manner and at the time directed by the Ministry of Finance and Economic Development.
- (2) The Government must release all the annual allocation of funds to the Authority at the beginning of the financial year.

**11 Offices and branches**

- (1) The Authority must have its head office in South Tarawa or any other place that the Minister determines.
- (2) The Authority may establish offices within Kiribati and, with the approval of the Minister, establish offices abroad.

**Part 3**  
**Board of Authority**

*Board established*

**12 Board established**

- (1) The Board of the Authority is established.
- (2) The Board comprises the directors referred to in **section 15(1)**.

*Purposes and powers of Board*

**13 Purposes of Board**

The purposes of the Board are—

- (a) to act on behalf of, and in the name of, the Authority; and
- (b) to provide governance for the Authority in accordance with this Act.

**14 Powers of Board**

- (1) The Board may—
- (a) make bylaws for the conduct of the business of the Authority;
  - (b) make rules for giving effect to the purposes of this Act;
  - (c) issue directions to financial institutions for the purposes of giving effect to the provisions of this Act and the Financial Institutions Act 2021; and
  - (d) appoint the CEO, the officers, and other employees of the Authority.
- (2) The Board has full capacity and all the powers reasonably necessary to achieve its purposes and perform its functions.
- (3) In performing its functions, the Board must act consistently with—
- (a) this Act;
  - (b) any other Act of Kiribati; and
  - (c) any other lawful requirement.
- (4) The bylaws and rules referred to in **subsection (1)(a) and (b)**, and any amendments to them made by the Board, do not have effect unless approved by the Minister.



**15 Board of directors of Authority**

- (1) The Board of directors of the Authority consists of—
- (a) the chief executive officer of the Authority;
  - (b) the Secretary for the Ministry of Finance and Economic Development; and
  - (c) 4 other members appointed by the Minister after consulting with the Cabinet.
- (2) The Minister must appoint as the chairperson of the Board one of the members appointed under **subsection (1)(c)**.

**16 Term of office of directors appointed by Minister**

- (1) A director appointed under **section 15(1)(c)** must be appointed for a term not exceeding 4 years as specified in his or her instrument of appointment, and may from time to time be reappointed.
- (2) A director appointed under **section 15(1)(c)** whose term of office expires continues in office until his or her successor is appointed.
- (3) A director is not entitled to compensation, severance, or other benefits on, or because of, ceasing to be a director for any reason.

**17 Qualifications for appointment as director under section 15(1)(c)**

The Minister may not appoint any person as a director unless that person is a person recognised in Kiribati as knowledgeable in the field of—

- (a) agriculture; or
- (b) commerce; or
- (c) industry; or
- (d) a related profession such as law or accountancy and so on; or
- (e) any other fields deemed necessary.

**18 Disqualification for appointment as director**

A person must not be appointed as a director of the Board under **section 15(1)(c)** if the person—

- (a) has a medical or other condition that impairs his or her judgment, skills, or intellectual capacity;
- (b) is a member of Parliament;
- (c) has been convicted of an offence, committed in any country, punishable by a maximum term of imprisonment of 2 years or more;
- (d) is a director, an officer, or an employee of a company (other than the Authority) engaged wholly or principally in financial or banking business;
- (e) is an undischarged bankrupt;
- (f) is currently suspended or disqualified from practising his or her profession because of his or her misconduct; and
- (g) is a public officer exempting the Secretary for Finance.

**19 Extraordinary vacancies**

- (1) Any director appointed under **section 15(1)(c)**, including the chairperson, may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.



- (2) The Minister must, before removing any director under **subsection (1)**, consult with the Cabinet.
- (3) A director of the Board appointed by **section 15(1)(c)** ceases to hold office by operation of law if he or she—
  - (a) is elected a member of Parliament;
  - (b) is convicted of an offence in any country punishable by a maximum term of imprisonment of 2 years or more;
  - (c) becomes a director, an officer, or an employee of a company engaged wholly or principally in financial or banking business;
  - (d) becomes a public officer;
  - (e) is adjudicated bankrupt; and
  - (f) is disqualified or suspended from practising his or her profession because of his or her misconduct.
- (4) A director appointed under **section 15(1)(c)** may at any time resign from office by giving written notice to the Minister.
- (5) If a director appointed under **section 15(1)(c)** dies, resigns, or is removed from office, or ceases to hold office by operation of law, the vacancy created is an extraordinary vacancy.
- (6) An extraordinary vacancy must be filled in the same manner as the appointment of the vacating member at the earliest opportunity and, in any event, within 30 days of the vacancy occurring.
- (7) Every person appointed to fill an extraordinary vacancy must be appointed for the balance of the term for which that vacating member was appointed.
- (8) For the purposes of **subsection (1)**, **misconduct**, without limitation, includes conduct by a director that brings the Authority into disrepute.

## **20 Delegations**

- (1) The Board may delegate any of the powers or functions of the Authority to the chief executive officer.
- (2) The CEO may, with the prior approval of the Board, in writing, subdelegate the function or power to another person working in, or holding a specified office in, the Authority.
- (3) A delegation or subdelegation under this section must be in writing.
- (4) Subject to any general or special directions given or conditions imposed by the Board, the person to whom a function or power is delegated or subdelegated may perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if it had been conferred or imposed on the person directly by this Act.
- (5) A person acting under a delegation or subdelegation must, in the absence of proof to the contrary, be presumed to be acting within the terms of the delegation or subdelegation.
- (6) A delegation or subdelegation may be made to a specified person or persons of a specified class of persons working within the Authority, or to the holder or holders of a specified office or specified classes of offices within the Authority.
- (7) A delegation or subdelegation does not affect or prevent the performance of a function or the exercise of a power by the Board or affect the Board's

responsibility for the actions of a person acting under the delegation or subdelegation.

## **Part 4**

### **Meetings of Board and rules of conduct**

#### **21 Meetings of Board**

- (1) Meetings of the Board may be held as often as the business of the Authority requires at times and places specified in accordance with the bylaws or appointed by the chairperson.
- (2) However the Board,—
  - (a) must meet at least 10 times each year and at intervals of no more than 2 months; and
  - (b) must meet more often if the directors think that is necessary to make sure the Board has proper oversight and control of the Authority.
- (3) A special meeting must be called by the CEO whenever 2 or more directors, in writing, request a meeting.
- (4) A board meeting may only be held if a quorum of the directors is present at the time and place appointed for the meeting.
- (5) The quorum for a meeting of directors is 4 directors (including the CEO) present in person, but those quorum requirements are deemed to be satisfied if a majority of directors can simultaneously hear and speak to each other although they may not all be in the same place.
- (6) A resolution signed by all directors, whether on 1 or more copies of that resolution, is deemed to be a resolution duly passed at a meeting.
- (7) A copy of that written resolution may be in—
  - (a) electronic format; or
  - (b) hard copy format; or
  - (c) both formats.

#### **22 Procedures at meeting**

- (1) At any Board meeting,—
  - (a) decisions may be made by a simple majority of directors present and voting on the matter;
  - (b) the chairperson of that meeting has a deliberative vote and a casting vote; and
  - (c) proper minutes must be kept of proceedings.
- (2) The Board may regulate its procedure as it thinks fit, subject to—
  - (a) the provisions of this Act and any other applicable laws; and
  - (b) written directives issued by the Minister.
- (3) Any other office holder within the Authority may, with the prior approval of the CEO, attend 1 or more meetings of the Board but—
  - (a) may not cast a vote at any meeting; and
  - (b) is not to be treated as a director for the purposes of satisfying the quorum requirements.



- (4) The Minister, on the invitation of the chairperson, may attend 1 or more meetings of the Board but—
  - (a) may not cast a vote at any meeting; and
  - (b) is not to be treated as a director for the purposes of satisfying the quorum requirements.

**23 Remuneration of directors**

- (1) The Minister must determine the remuneration to be paid for services as a director of the Board (other than for the CEO and the director who is the Secretary for the Ministry of Finance and Economic Development).
- (2) The CEO and the Secretary for the Ministry of Finance and Economic Development are not entitled to remuneration for their services as a director.
- (3) Directors (including the CEO and the Secretary for the Ministry of Finance and Development, if they are not otherwise entitled to reimbursement from the Government), are also entitled to reimbursement of actual and reasonable travelling and other expenses where those have been incurred in performing functions as a director.
- (4) Remuneration and reimbursement under this section must be paid from the operating budget of the Authority.

*Conflicts of interest, gifts, and code of conduct*

**24 Conflicts of interest**

- (1) No director may—
  - (a) act as a delegate of any commercial, financial, agricultural, industrial, or other interest (whether in Kiribati or overseas); or
  - (b) receive or accept directions or recommendations from any of those interests in respect of functions to be performed under this Act.
- (2) All directors must—
  - (a) fully disclose to the Board any commercial, financial, agricultural, industrial, or other interests (whether in Kiribati or overseas) with which they may at any time be directly or indirectly connected; and
  - (b) refrain from voting on any matter related to those interests that becomes the subject of consideration or decision by the Board.
- (3) However, such an interest, if disclosed, does not disqualify the interested party for the purpose of constituting a quorum.

**25 Prohibition on gifts**

No director or officer or employee of the Authority may accept any gift or advantage for himself or herself or, in his or her behalf, for persons with whom he or she may have family, business, or financial connections if the acceptance of that gift or advantage would result, or give the appearance of resulting, in the lessening of impartiality in the performance of his or her functions under this Act.



**26 Code of conduct**

- (1) The Board must, as soon as practicable after the establishment of the Authority, prepare a code of conduct for the directors, officers, and employees of the Authority, which must include rules—
  - (a) about conduct affecting the image and reputation of the Authority;
  - (b) about receiving, and dealing with, gifts;
  - (c) about the disclosure of conflicts of interest;
  - (d) designed to ensure respectful behaviour at all times.
- (2) The Board may at any time amend or replace the code of conduct.

**Part 5**  
**CEO, management, and employees**

*Appointment of CEO*

**27 Appointment of CEO**

- (1) The Board must advertise the position of the CEO, within Kiribati, and if necessary, abroad.
- (2) The CEO—
  - (a) must be a person with recognised experience in financial, economic, and business matters (whether in Kiribati or overseas, or both);
  - (b) must be appointed by the Minister for a period of 4 years; and
  - (c) is eligible for re-appointment.
- (3) The Minister must, on the recommendation of the Board, appoint a chief executive officer of the Authority.
- (4) The remuneration and other terms and conditions of employment of the CEO must be determined from time to time by the Board, with the approval of the Minister.

*Duties of CEO*

**28 Functions of CEO**

The CEO—

- (a) is responsible to the Board for the execution of its policy and the management of the Authority; and
- (b) except as provided in this Act, the bylaws of the Authority, or the resolutions of the Board,—
  - (i) may act, contract, and sign instruments and documents on behalf of the Authority; and
  - (ii) in accordance with any resolution of the Board, may delegate any or all of those powers to other officers of, or persons working within, the Authority.

**29 What happens if CEO is absent or incapacitated**

- (1) In the event of the absence or incapacity of the CEO from whatever cause, the Board may appoint an officer of the Authority to exercise and perform all the powers and functions of the CEO in accordance with **section 28**.
- (2) If no officer is considered by the Board to be qualified to carry out the responsibilities of the CEO,—
  - (a) the Minister may, after consultation with the Board, appoint another director, or any other person who is qualified for appointment as a director under this Act, to act as the CEO for the time being; and
  - (b) any person so appointed has, so long as his or her appointment continues, all the powers and functions of the CEO and any other functions conferred by the Board and other appropriate duties from time to time.
- (3) Any person, other than an existing director, who is appointed under this section to act as the CEO is, while so acting, deemed to be a director.

**30 CEO to be full-time**

The CEO must devote the whole of his or her professional services to the Authority and must not, without the approval of the Board,—

- (a) receive any salary or supplement to a salary from any source other than the Authority; or
  - (b) occupy any other office or engage in employment, whether remunerated or not, except as a nominee of the Authority.
- (2) However, the CEO may—
- (a) act as a member of any statutory board, committee, or commission established by the Government; and
  - (b) become, or continue as, a director or member of the board of any international financial institution or organisation of which Kiribati is a member.

**31 Power to appoint officers and employees**

- (1) The Board may appoint and employ, at remuneration and on terms and conditions that it determines, an appropriate number of officers and other employees as the Board considers necessary for the efficient functioning of the Authority.
- (2) In determining the remuneration of officers and employees, the Board must take into consideration the remuneration of similar positions in the Government and the private sector in Kiribati.

**32 Secrecy**

- (1) No director, officer, or other employee of the Authority may disclose to any person any material information relating to the affairs of the Authority or of any financial institution or other person that he or she has acquired in the performance of his or her duties under this Act, except—
  - (a) for the purpose of the exercise of his or her powers or the carrying out of his or her functions; or
  - (b) when lawfully required to do so by any court or under any Act or other written law.



- (2) Any person who contravenes **subsection (1)** commits an offence and is liable on conviction to a fine not exceeding \$5,000.
- 33 Personal immunity of directors, officers, and other employees**  
No director, officer, or other employee of the Authority is personally liable for an act or default of the Authority done or omitted to be done in good faith and without negligence in the course of the operations of the Authority.

## **Part 6**

### **Operations of Authority**

- 34 Maintenance of accounts**  
(1) The Authority may, with the approval of the Board and on any terms and conditions set by the Board,—  
(a) open and maintain accounts with banks and financial institutions; and  
(b) open and maintain accounts for the Government and financial institutions in Kiribati.  
(2) The Authority may maintain accounts with commercial banks abroad and international agencies, with the approval of the Board.
- 35 Financial year**  
The financial year of the Authority is the same as the financial year of the Government.
- 36 Auditing of accounts**  
The accounts of the Authority must be audited by the Auditor-General or any other auditor approved by the Auditor-General.
- 37 Publication of accounts and annual report**  
(1) The Authority must, within 3 months after the close of each financial year, submit to the Minister—  
(a) a copy of the annual accounts certified by the auditors; and  
(b) a report of its operations during that year.  
(2) The Minister must ensure that a copy of the annual accounts and the report of operations is laid before Parliament at the next meeting of Parliament after the submission of those accounts and the report to the Minister.

## **Part 7**

### **Development and management of financial system in Kiribati**

- 38 Authority must make rules and issue directions**  
(1) The Authority must make rules and issue directions for the purposes of developing an efficient payments system in Kiribati.  
(2) For the purposes of **subsection (1)**, an **efficient payments system** is a system that provides accessible services to members of the public, including for—  
(a) depositing and withdrawing cash;  
(b) the payment and clearance of cheques;



- (c) the payment of amounts electronically (online) by electronic funds transfer from accounts operated by members of the public to the Government, financial institutions, businesses and employers, and vice versa;
- (d) the issue and use of credit cards and other cards or devices allowing persons to make electronic payments for goods and services in person; and
- (e) the provision of mobile banking services.

**39 Financial institutions must comply with rules and directions**

- (1) Every financial institution must comply with rules and directions issued by the Authority under **section 38(1)**.
- (2) Every financial institution that contravenes **subsection (1)** commits an offence that is punishable on conviction by a fine not exceeding \$5,000.

*Access to financial services*

**40 Access to financial services**

Every financial institution must ensure that members of the public can use its financial services (including payment systems) for a reasonable cost, at rates specified from time to time by the Authority.

*Agreements between institutions and third parties*

**41 Agreements between financial institutions and other parties**

- (1) Every financial institution must submit to the Authority, within 3 months of the commencement of this Act, any existing agreements between that financial institution and another financial institution and agreements between that financial institution and a third party.
- (2) After reviewing the agreements, the Authority must notify the financial institution of any aspects of the agreement that contravene this Act or are inconsistent with promoting the soundness or development or efficient operation of the financial system of Kiribati, and require those matters to be remedied.
- (3) The financial institution must—
  - (a) immediately take steps to comply with the requirements of the Authority; and
  - (b) fully comply with those requirements within 3 months after the date of the requirement.
- (4) A financial institution that fails to comply with the requirements of the Authority commits an offence and is liable on conviction to a fine not exceeding \$500 for each day when the institution does not comply with those requirements.
- (5) A financial institution must obtain the approval of the Authority before entering into agreements between that financial institution and another financial institution and agreements between that financial institution and a third party.
- (6) In this section, **agreement** means—
  - (a) agreements with another government agency and agreements with a person to act as the agent of a financial institution:

- (b) banking agreements:
- (c) shareholder agreements.

### *Complaints system*

#### **42 Complaints system**

- (1) Every financial institution must ensure that it has in place written procedures for dealing with complaints by customers and members of the public.
- (2) Every financial institution must, as soon as practicable after the end of each financial year, give the Authority—
  - (a) a summary of the complaints the institution received during the previous financial year; and
  - (b) a summary of the way in which those complaints were resolved.

### *Financial literacy*

#### **43 Financial literacy**

Every financial institution must, for the purpose of promoting financial knowledge among customers and members of the public, prepare material in the form of booklets, pamphlets, and audio-visual presentations explaining to customers and other members of the public the financial services (including payment systems) offered by the institution.

### *Promotion of economic development and small loans*

#### **44 Promotion of economic development and small loans**

- (1) The Authority must ensure that the financial system promotes economic development in Kiribati.
- (2) For the purposes of giving effect to **subsection (1)**, the Authority may—
  - (a) give advice to financial institutions;
  - (b) recommend the making of regulations under **subsection (3)**.
- (3) The Minister may, on the recommendation of the Authority, make regulations facilitating—
  - (a) the making of loans by financial institutions to persons operating small or very small business enterprises; and
  - (b) the availability of finance to sectors of the community specified in the regulations, at affordable rates from time to time specified by the Authority.

## **Part 8**

### **Supply of information**

#### **45 Supply of information**

- (1) A financial institution must give the Authority any information regarding its business, or that of any related company in Kiribati or elsewhere, that the Authority requires for the purposes of this Act.
- (2) The Authority may require the auditor of a financial institution that provides information under **subsection (1)** to verify the accuracy of that information.



- (3) Every director and every chief executive officer of a financial institution that fails to provide the required information or the verification referred to in **subsection (2)** from its auditor after 30 days' notice commits an offence and is liable on conviction to a fine not exceeding \$500 for every day during which the information or verification is not submitted to the Authority.
- (4) If information provided under this section is false in any material particular, every director and every chief executive officer of the financial institution commits an offence and is liable on conviction to a fine not exceeding \$5,000.
- (5) **Subsection (1)** does not require a financial institution to give information protected by legal professional privilege or any other privilege recognised in a court of law in Kiribati.
- (6) In **subsection (1)**, **related company** means anybody corporate that is or has at any relevant time been the financial institution's subsidiary or holding company or a subsidiary of its holding company or a holding company of its subsidiary.

#### 46 Defence

Any person who is prosecuted in respect of an offence under **section 45** has a good defence if he or she proves that—

- (a) the offence was committed without his or her consent or connivance; and
- (b) he or she exercised all the necessary diligence to prevent the commission of the offence that he or she ought to have exercised, having regard to his or her position in the financial institution in respect of which the offence was committed.

#### 47 Extension of any time limit for provision of documents and information

At the request of a financial institution, the Authority may extend any period within which the financial institution is, in accordance with **section 45(3)**, obliged to provide any document or information.

## Part 9 General

#### 48 Restriction in activities

(1) The Authority must not—

- (a) engage in trade; or
- (b) purchase the shares of any corporation or company, including the shares of any banking company; or
- (c) otherwise have an ownership interest in any commercial, agricultural, industrial, or other undertaking; or
- (d) purchase, acquire, or lease real property.

(2) However, the Authority may—

- (a) acquire an interest referred to in **subsection (1)(d)** in satisfaction of debts due to it, but that interest must be disposed of by the Authority at the earliest suitable date; and
- (b) purchase, acquire, or lease rental property that the Authority considers necessary or desirable for the housing of, and amenities for, its staff, and



to carry out similar requirements incidental to the performance of its functions under this Act or any other Act.

**49 Non-business days**

- (1) If the Authority considers it necessary or desirable in the public interest, it may make a bylaw declaring any day a non-business day for financial institutions.
- (2) Without limiting **subsection (1)**, the Authority may in the event of a natural disaster declare in any manner that it considers appropriate any day a non-business day for financial institutions.
- (3) A declaration under **subsection (2)** may relate to any part of or to the whole of Kiribati.

*Amendment to other Acts*

**50 State-Owned Enterprises Act 2013 amended**

- (1) This section amends the State-Owned Enterprises Act 2013.
- (2) After section 4(3)(c), insert a new
  - “(c) the Financial Supervisory Authority of Kiribati;
  - while the existing (c) becomes (d)”

## EXPLANATORY MEMORANDUM

The review of the governance of the financial institutions in Kiribati confirms the absence of the independent monitoring and evaluation of prudential performance of the financial institutions. These present considerable risks to the depositors, owners of capital, the financial position of the organisation, the soundness of the entire financial system and, by extension, the health of the economy. It reviews concluded that there is an urgent and immediate need to develop effective prudential legislations and standards in Kiribati.

A sound financial system will also provide confidence to the domestic and foreign investors in Kiribati which will help grow the economy and provide more employment to the people.

The financial prudential legislations consist of two Acts:

- i. An Act to establish a new financial supervisory Authority of Kiribati (FSAKA)
- ii. A Financial Institutions Act (KFIA) which will cover all financial institutions undertaking the following operations:
  - Banking of all types including commercial, investment and development banking
  - Insurance of all types
  - Superannuation
  - Money transfers
  - Credit Unions
  - Money Lenders

### **Financial Supervisory Authority of Kiribati:**

The purpose of this Act is to establish the supervisory authority of Kiribati which will supervise the financial institutions that are licensed under the Kiribati Financial Institutions Act.

Part 1 of the Act provides for preliminary matters including the title and commencement. It also provides interpretations of the key terms used in the Act.

Part 2 of the Act establishes the Authority and defines its purposes which are to:

- (a) promote financial soundness within Kiribati: and
- (b) promote the development and efficient operation of the financial system within Kiribati.

Part 2 of the Act also defines the functions of the Authority, its budget, and the powers of the Minister under other Acts.

Part 3 of the Act establishes the Board of the Authority and defines its powers. It specifies the areas of expertise of the Board members and the terms of their appointment. The Minister responsible for Finance appoints the Board in consultations with the Cabinet. Given the important role of the Authority to look after the health and soundness of the financial system, the Secretary of Finance is the only public officer eligible to join the Board. The Board members must satisfy the "fit and proper" test specified in this Part of the Act.



Part 4 of the Act specifies the procedures of the meetings of the Board. To ensure that the Board effectively supervises the financial institutions, the Board must meet at least 10 times in a year. The remuneration of the Board is approved by the Minister.

Part 5 of the Act provides for the management and the staff of the Authority. This Part outlines the appointment process of the CEOs and the functions of the position. The Minister appoints the CEO on the recommendation of the Board. The Minister approves the remuneration of the CEO on the recommendation of the Board.

Part 6 of the Act defines the operation of the Authority. The Authority is a body corporate. Its financial year must be the same as government's. It must submit an operational report and financial statements to the Minister for Finance by the end of the first three months of the new financial year. The Minister is required to table the report in the next session of Parliament.

Part 7 of this Act defines the role of the Authority in developing the financial system in Kiribati including the payment system and promoting financial literacy. It gives power to the Authority to issue directives and provides the Authority the function to improve access to financial services.

This part 7 includes the requirement that licensed financial system must submit to the Authority existing financial agreements that they have entered into with other financial institutions or with other third party. If the Authority assess these agreements to be in conflict with its purposes, the Authority will require the financial institution rectify these agreements within 3 months.

Part 8 of this Act deals with the supply of information by the financial institutions to the Authority. It provides for fines and penalties for delays in supplying information and deliberately supplying false information to the Authority.

Part 9 of this Act explains the general clauses including the restrictions of activities that the Authority cannot do and specify non-business days for financial institutions.

**Dr. Teuea Toatu**  
**Hon. Vice President and Minister for Finance and Economic Development**

#### **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 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 Financial Supervisory Authority of Kiribati 2021 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 25<sup>th</sup> November 2021 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 21 day  
of December 2021.

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