

LAWS OF THE GILBERT ISLANDS
REVISED EDITION 1977

CHAPTER 35

FORESHORE AND LAND RECLAMATION

ARRANGEMENT OF SECTIONS

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An Ordinance declaratory of the ownership of the foreshore and
regulating certain reclamation projects

Commencement: 10th June 1969

5 of 1969
3 of 1972
(Cap. 26 of
1973)
2 of 1974
26 of 1977

1. This Ordinance may be cited as the Foreshore and Land Reclamation Ordinance. Short title
2. In this Ordinance unless the context otherwise requires— Interpretation

“foreshore” means the shore of the sea or of channels or creeks that is alternately covered and uncovered by the sea at the highest and lowest tides;

“reclamation of land” or “reclamation” includes the construction of causeways, bridges, viaducts, piers, docks, quays, wharves, embankments, sea-walls, landing-places and other structures;

“sea-bed” means the bed of all territorial and inland tidal waters.

Declaration
of ownership
of foreshore
and sea-bed
and design-
ation of
foreshore

3. (1) Subject to the public rights of—
(a) navigation and fishing, and
(b) of passing over the foreshore, and
to any private rights that may exist in or over the foreshore or the sea-bed, the ownership of the foreshore and sea-bed vests in the Crown.

(2) The Minister may by notice (and after consultation with all those landowners who may be directly affected thereby) designate the foreshore of an island or islet or any part thereof for the purposes of this section and in this section "designated foreshore" means any foreshore or part thereof so designated.

(3) No person shall remove from a designated foreshore any sand, gravel, reef mud, coral, rock or other like substance without first having obtained from the Chief Lands Officer a licence for that purpose.

(4) A licence required by subsection (3) may be issued subject to such conditions as the Chief Lands Officer thinks fit.

(5) A person who contravenes subsection (3) or a condition subject to which a licence required by that subsection was issued shall be liable to a fine of \$250.

Minister may
authorise
undertaking

4. (1) Subject to section 11 (1) the Minister may, in accordance with this section, authorise the reclamation of land over and upon the foreshore or the sea-bed irrespective of the ownership of land bordering on or of whether any land borders on such foreshore or sea-bed.

(2) Notification of the proposed reclamation shall be published—

- (a) in two successive issues of a government publication,
- (b) by being broadcast on two successive days over the radio, and
- (c) by posting at each police station on the island where the land is to be reclaimed.

(3) A notification under subsection (2) shall—

- (a) describe the proposed reclamation and give the approximate area to be occupied in connection therewith; and
- (b) call upon all persons having objections to the reclamation or any claims of private right in respect thereof to submit to the Chief Lands Officer before the expiration of such period, being not less than 6 weeks, as may be specified in such notification, such objections or claims in writing

specifying the nature thereof and giving an estimate of any loss which it is alleged would be incurred by reason of the extinguishment of any private right.

(4) (a) Whenever claims or objections are submitted pursuant to subsection 3 (b) and the Minister considers it expedient so to do, he may appoint one or more persons to hold an inquiry on such matters as he may set out in the terms of reference.

(b) Such person or persons shall keep or cause to be kept a record of any evidence taken at the inquiry and shall transmit the same together with a report of their findings to the Minister.

(5) The Minister may, after considering the proposed reclamation together with all objections and claims submitted and, where an inquiry has been held, the evidence taken by, and the report of the person or persons holding the inquiry, authorise such reclamation with or without modifications.

(6) A notification of such authorisation together with a description of the proposed reclamation shall be published at the Public Office of the Governor.

5. Nothing in section 4 shall apply to the construction of causeways and of landing-places by, or on behalf of, the Government or by local government councils.

Not applicable to causeways and landing places constructed by a public body

6. Upon publication of the authorisation of a proposed reclamation or upon the construction of a causeway or landing-place, all public and private rights of navigation or fishing and rights ancillary thereto, all public and private rights of access or user, and all other public or private rights (if any) in, upon or over the foreshore or sea-bed occupied by the proposed reclamation or by the causeway or landing-place shall be extinguished and cease to exist.

Extinguishment of rights

7. (1) Save as provided by this Ordinance, no claim shall at any time be made, action brought or continued in respect of the extinguishment under section 6 in whole or in part of any public or private right, or in respect of the injurious affection, resulting from the reclamation, of any public right.

Limitation of claims

(2) Any person who submitted a claim of private right in accordance with section 4 (4) may, within 3 months of the notification under section 4 (6), submit a claim in respect of the extinguishment of such private right.

(3) Any person whose private right may have been extinguished by the construction of a causeway or landing-place may

within 3 months of the completion of such causeway or landing-place, submit a claim for compensation in respect of the extinguishment of such private right to the public body responsible for the construction of the causeway or landing-place.

Jurisdiction
over and
determination
of claims

8. (1) The magistrates' court where the value of the claim is not more than \$3000, or in other cases, the High Court, shall hear and determine any claim for compensation under section 7 in the same manner as any civil action instituted in such court:

Cap. 52

Provided that where a claim made under section 7 rests upon a title liable to registration by the magistrates' court composed or deemed composed under section 7 of the Magistrates' Courts Ordinance, the claim shall not be entertained unless the title upon which it rests had been registered prior to the notification of authorisation under section 4 (6) or prior to the construction of the causeway or landing-place, as the case may be.

(2) Notwithstanding subsection (1) the Minister or the local government council, as the case may be, may enter into an agreement with any claimant for the compromise or settlement of his claim.

Vesting of
reclaimed
land

9. (1) Subject to subsection (2) any land reclaimed otherwise than under section 11 (1) shall vest in the Crown.

(2) Causeways and landing-places constructed by a local government council shall, subject to the right of the Minister to call for their surrender to the Crown at any time, vest in that council.

Agreements
relating to
reclaimed
land or works

10. The Minister may enter into an agreement with any person either before or after the completion of an undertaking for the sale, lease or the granting of any other rights over the reclaimed land or other works.

Landowner's
liberty to fill
foreshore not
to constitute a
right

11. (1) Without prejudice to any public or private rights that may be affected thereby, this Ordinance shall not apply to the filling by a landowner of the whole or any portion of the foreshore that borders on his land.

(2) Nothing in subsection (1) shall be deemed to recognise or create any right or claim, or any greater right or claim than but for that subsection would exist and be recognised and enforceable by action in court.

Savings

12. (1) Nothing in this Ordinance shall be deemed to be in derogation of any of the powers, rights and prerogatives of the Crown.

(2) Nothing in this Ordinance shall affect section 28 of the

Harbours Ordinance (which provides, *inter alia*, for the grant of a licence for the erection of boat-sheds, wharves or landing-places in harbours), or any harbour works that may be constructed under that Ordinance. Cap. 40

13. The Minister may make regulations—

Regulations

- (a) prescribing the form of licence required by section 3 (3) and the fees to be paid therefor;
- (b) further to control the removal from the foreshore of any substance referred to in section 3 (3).

Section 8

Omit "the Colony",

Substitute "Banaba".

Omit "from the Crown".

CAP.26 – FORESHORE AND LAND RECLAMATION
(Cap.35 of 1977)

Foreshore and Land Reclamation Ordinance

Note: - These amendments are replaced in Schedule 3

Section 2 (1977, S.2)

Omit the definition "sea-bed", substitute –
"sea-bed' means the bed of all Kiribati waters that are tidal waters."

Section 4 (1977, S.4)

Omit from subsection (1) "Government in Council",
Substitute "the Minister".

Omit from subsection (2) "colony".

Omit from subsection (5) "the Governor in Council".
Substitute "the Minister".

Section 5 (1977, S.5)

Do not amend "the Government",

Section 8 (1977, S.8)

Omit from subsection (2) "the Governor",
Substitute "the Republic".

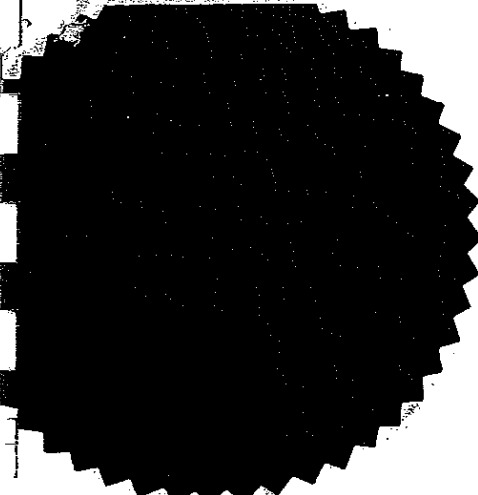
Section 10 (1977, S.10)

Omit "the Governor",
Substitute "the Republic".

Section 13 (1977, S.13)

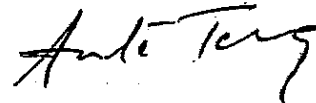
Omit "the Governor in Council",

Substitute "The Beretitenti, acting in accordance with the advice of the
Cabinet,".



REPUBLIC OF KIRIBATI
(No. 7 of 2005)

I assent,



Beretitenti

21 July, 2005

**AN ACT TO AMEND THE FORESHORE AND LAND
RECLAMATION ORDINANCE, CAP 35 TO STRENGTHEN THE
RECOGNITION OF CUSTOMARY OWNERSHIP OF THE
FORESHORE AND FOR CONNECTED PURPOSES**

Commencement:
2005

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

Short title

1. This Act may be cited as the Foreshore and Land Reclamation (Amendment) Act 2005.

Interpretation

2. In this Act 'principal Act' means the Foreshore and Land Reclamation Ordinance, Cap 35.

Amendment of section 2

3. Section 2 of the principal Act is amended by inserting the definition of the words: -

"beach front" means part of the foreshore where the sand and/or gravel stops accumulating;

“part of the foreshore” means the part of the foreshore extending from where it is alternatively covered and uncovered by the sea at the highest tide and ends at the beach front or where there is no beach front from where the reef mud or the reef flat begins as the case may be;

“private right” include those rights recognised by customs to exist and in particular the right of the landowner to the exclusive use of part of the foreshore of his land;

“reef flat” means part of the foreshore on the ocean side extending seaward from the beach front;”

Amendment of section 3

4. Section 3(4) of the principal Act is amended by inserting after the words “may be issued” and before the word “subject” the following: -

“after the person applying for the licence has agreed with the landowner whose land and/or right will be affected the amount of compensation to be paid to that person or landowner for the removal of sand, gravel, reef mud, coral rock or other like substance and after the said person or landowner has agreed in writing for the removal of such substances from part of the foreshore of his land”.

**THE FORESHORE AND LAND RECLAMATION (AMENDMENT)
ACT 2005**

EXPLANATORY MEMORANDUM

This legislation seeks to strengthen the recognition of customary rights over the foreshore of our lands.

The existing legislation recognises the existence of private rights. Section 3 emphasises what those private rights are. They include our customary rights to the exclusive use of the foreshore of our lands.

Section⁴ attempts to give the landowners the right to have a say in the granting of licences. This includes their rights to be compensated for the gravel or sand or other like substances removed from the foreshore of their land pursuant to a licence issued under the Act.

Banuera Berina
MP for South Tarawa
21st October 2004

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

This printed impression of the Foreshore and Land Reclamation Act 2005 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 17th June 2005 and is found by me to be a true and correctly printed copy of the said Bill.


.....
Ioataake Timeon

Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this ...21ST.....
day ofJULY..... 2005.


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Clerk of the Maneaba ni Maungatabu