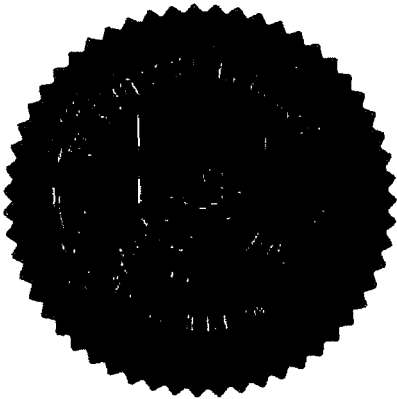



REPUBLIC OF KIRIBATI

(No. of 2018)



I assent,


Beretitenti
6/11/2018

AN ACT

entitled

**AN ACT TO MAKE PROVISION FOR THE PROTECTION OF PUBLIC HIGHWAYS;
ESTABLISHMENT OF A LICENCING AUTHORITY AND FOR CONNECTED
PURPOSES**

Commencement

2018

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

PART I - Preliminary

Short title

1. This Act may be cited as the *Public Highways Protection Act 2018*.

Commencement

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

Definitions

3. In this Act unless the context otherwise requires –

“Authority” means the Kiribati Land Transport Authority established under section 4 of this Act;

"council" means a Local Government Council established under the *Local Government Act 1984*;

“Chief Executive Officer” means a Chief Executive Officer appointed by the Board of the Authority pursuant to section 7;

“fund” means Kiribati Land Transport Authority Development Fund;

“Minister” means the Minister responsible for the Kiribati Land Transport authority;

"Ministry" means the Ministry responsible for the Kiribati Land Transport authority;

“motorbike” has the same meaning under section 4 of the *Traffic Act 2017*;

"police officer" has the meaning assigned to it under section 6 (2) of the *Police Service Act 2008*;

"public highway" means any road designated a highway by order made under section 10 of the *State Acquisition of Lands Ordinance Cap 95* by the Minister responsible for that law and includes any sealed feeder roads, footpath, footway, bridle path as well as any bridge, drain, causeway, kerb or gutter formed or used, or being formed or used, in conjunction with such road.

PART II – KIRIBATI LAND TRANSPORT AUTHORITY

Establishment of the Kiribati Land Transport Authority

4. (1) There is hereby established a Kiribati Land Transport Authority for Kiribati (hereinafter referred to as "the Authority").

Incorporation of the Kiribati Land Transport Authority (the “Authority”)

5. The Authority

(a) is a body corporate with perpetual succession;

(b) shall have a seal;

(c) may enter into contracts;

(d) may sue and be sued in its corporate name;

(e) may open one or more accounts in its own name; and

(f) for the purposes of its functions, has all the powers, functions, duties and responsibilities of a corporation.

Board of the “Authority”

6. (1) The Authority shall be governed by a Board of Directors, which shall consist of five (5) members – a Chairperson, Vice Chairperson and three (3) other members to be appointed by the Minister.

(2) When the Board appoints a Chief Executive Officer, he or she shall be regarded as a Secretary to the Board and as a nonvoting member of the Board.

(3) Vacancies in the membership of the Board shall be filled in the same manner as the original appointment.

(4) Members of the Board shall be paid a sitting allowance at such rate endorsed by the Minister.

Chief Executive Officer and staff.

7. (1) The Authority shall appoint a Chief Executive Officer who shall report on operational matters directly to the Board of the Authority.

(2) The Chief Executive Officer shall be responsible for the daily operations and affairs of the Authority, the administration of its budget and for supervision of other employees of the Authority.

(3) The Chief Executive Officer may hire with approval from the Board such additional staff as may be necessary to carry out the responsibilities of the Authority.

(4) The Chief Executive Officer and other staff of the Authority shall be compensated as determined by the Board.

Powers and functions of the Authority

8. (1) Subject to the provisions of this Act the Authority shall –

(a) consider and advise the Minister on any matter relating to public highways in Kiribati referred to the Authority by the Minister;

(b) ensure that all public highways are free from encroachment and other acts likely to damage highways or otherwise adversely affect the safety or use of public highways;

(c) ensure that the public highways are continually maintained throughout;

(d) perform all functions of a licensing authority as specified in section 9;

(e) prohibit, restrict, control or regulate in a manner prescribed by the Minister –

(i) the excavation, digging, opening up, formation or construction or laying of any drain, sewer or electric power cables or lines in or on any public highway;

(ii) the dumping of rubbish or litter of any kind on any public highway;

(iii) any activity or any act of commission or omission which may, or is calculated or likely to damage, obstruct, hinder or prevent the free passage of any person or vehicle on any public highway;

(f) at the request of any council, to advise or assist such council with regard to any matter relating to any road whether such road is a public highway or not; and

(g) assist other authorities in prohibiting, restrict, control or regulate speeding and reckless usage of the highway.

(2) Notwithstanding the provisions of subsection (1) the Authority may authorise any person in writing to do any of the acts mentioned under subsection (1)(e)(i), (ii) and (iii) of this section upon such terms and conditions as the Authority thinks fit.

(3) Subject to any provisions of this Act, no person shall without the consent of the Authority in writing –

- (a) form, dig or open any drain or sewer in or on any public highway;
- (b) remove or cause to be removed, from any public highway any sand, soil, stone, gravel or other matter used, or to be used in the formation of such public highway;
- (c) break up or otherwise damage any public highway;
- (d) wilfully obstruct or hinder or prevent the free passage of any person or vehicle on any public highway; or
- (e) deposit rubbish or litter of any kind on any public highway.

(4) Any person who contravenes any of the provisions of subsection (3) commits an offence and shall be liable upon conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

(5) In addition to the penalty referred to in subsection (4) above the court may order such person to repair, dispose of, or make good the acts or omissions which constituted the offence or pay the cost of such repairs or of making good such acts or omissions.

(6) Notwithstanding the provisions of any other law, a police officer or any person authorised in writing by the Authority may arrest without a warrant any person who commits or has committed an offence under this Act.

(7) Where a person is arrested under subsection (6) such person shall be taken without delay to the nearest police station and handed over to the police officer in charge of such station.

Licensing Authority

9. (1) The Authority shall perform all functions of a licensing authority for the area of South Tarawa and Betio and any other area(s) to be determined from time to time by the Minister by notice.

(2) The functions include the following:

- (a) to register all classes of motor vehicles;
- (b) to issue all classes of driver's licences;
- (c) to keep a register of motor vehicles registered by the Authority;

- (d) to keep a register of driver's licences issued by the Authority;
- (e) to undertake investigations into persons applying for all types of driver's licences with Councils as to their suitability to be issued a licence;
- (f) to share information with other Authorities on vehicle registration and the details of driver's licences;
- (g) to employ qualified mechanics to perform Roadworthy Certificate Inspection;
- (h) to keep a list of registered mechanics who are approved to perform Roadworthy Certificate Inspection;
- (i) to receive all applications relating to the registration of a vehicle and for a driver's license;
- (j) to keep a list of registered formal driving schools and professional driving instructors, whether they be within the Authority or approved external providers; and
- (k) all other functions and duties of a licensing authority listed under the *Traffic Act 2017* including those to be determined from time to time by the Minister by notice.

Functions and duties of the Authority under the Traffic Act 2017

10. (1) Any functions and duties of a licensing authority listed under the *Traffic Act 2017* shall be handled and processed by the Authority for the designated areas pursuant to section 9 (1) above in accordance with the provisions of that law.

(2) Any breach of the *Traffic Act 2017* that are related with the functions and duties of the Authority shall be dealt with in accordance with the provisions of that law.

Review of the Authority's decision

11. (1) Any person aggrieved by the decision of the Authority may apply to the Magistrates Court for a review of the Authority's 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 Authority to make a decision on the basis of the Court's reasons.

PART III - KIRIBATI LAND TRANSPORT AUTHORITY DEVELOPMENT FUND

Development Fund

12. (1) There is hereby established a Fund which shall be referred to as the Kiribati Land Transport Authority Development Fund
- (2) There shall be paid into this Fund:
- (a) Any money appropriated by the Government of Kiribati for the purposes of this Act;
 - (b) Any money received pursuant to any levies, fees or charges on licences or any other fee authorized by this Act or regulations promulgated hereunder; and
 - (c) Any other money payable under any other law into the Fund.

Kiribati Land Transport Authority Development Fund Fees and Charges

13. (1) The Board, may impose by regulation fees and charges on driving and vehicle licences for the benefit of the fund referred to in section 12 (1) –
- (a) in respect of different classes of vehicles to be paid by vehicle operators;
 - (b) in respect of capacity engine of vehicles to be paid by vehicle operators;
 - (c) registration of new vehicles;
 - (d) in respect of applications for driving licences;
 - (e) renewal of registration and driving licences; and

(f) customized and personalized number plates.

(2) Fees and charges may be prescribed for –

(a) the rate payable by operators or owners of vehicles for different classes of licenses applied for;

(b) the registration of new vehicles;

(c) application for driving licences; and

(d) the renewal fees.

(3) Persons exempted from paying fees and charges –

(a) Government officers entitled to government cars;

(b) official drivers appointed by the Government for such purposes; and

(c) any other persons exempted by the Authority.

Purpose and Administration of the Fund

14. (1) Money may be paid out of the Fund for the purpose of protecting and developing the Highways in Kiribati and for all other purposes of the Authority as provided for in this Act and regulations adopted hereunder.

(2) Where any money is borrowed or any advance, grant, contribution, gift or other assistance is received for a specific purpose or subject to any condition, it may be expended or used only for that purpose or subject to those conditions.

(3) No money shall be withdrawn from the Fund except with authority and signature of the Chairperson and two other Board members, who shall satisfy themselves that the withdrawal is made in accordance with this Act and any other applicable law.

(4) A delegation to expend money out of the fund is given to the Chief Executive Officer and the Chairperson or two other Board members designated by the Board.

(5) The Chief Executive Officer shall submit a budget of revenues and expenditure with respect to each financial year, and any proposed revision to that budget, to the Board for review and approval.

Accounts and Records

15. (1) The Authority shall open a bank account or accounts with a bank approved by the Board for such purpose.

(2) The Chief Executive Officer shall maintain proper accounts and records, to the satisfaction of the Board, of;

- (a) The Kiribati Land Transport Authority Development Fund
- (b) The disposition of money out of the Fund; and
- (c) The property and financial transactions of the Authority generally.

(3) The accounts and records referred to in subsections 15 (1) and (2) of this section shall be audited by the Auditor-General.

Annual Report

16. (1) Within 3 months after the end of each financial year, the Authority must submit to the Auditor-General an annual report containing –

- (a) its' audited balance sheet;
- (b) its' audited income statement;
- (c) An audited cash flow statement;
- (d) A note to describe assets and liabilities;
- (e) A report on the affairs and activities of the Authority during the preceding financial year; and
- (f) Any other information as the Minister may specify in writing.

(2) The Minister must lay copies of the Authority's annual report to Parliament as soon as possible and in accordance with Parliament Rules of Procedure.

(3) A copy of the report of the Authority referred to in subsection (1) (e) must always be kept in a safe and secure location for the life of the Authority.

(4) Notwithstanding any of the other provisions of this section, the Minister may at any time, require the Authority to submit to him a report in such manner and for such matters as he thinks necessary.

PART IV – MISCELLANEOUS

Regulations

17. (1) The Minister may make regulations prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, and without limiting the generality of subsection (1) the Minister may make regulations with regard to –

- (a) the matters specified in section 8(1)(e)(i), (ii) and (iii) of this Act;
- (b) the manner in which the authorisation mentioned in section 8(2) of this Act may be made; and
- (c) the form and the procedure in which an application for authorisation under section 8(2) of this Act may be made.

Repeal

18. The *Public Highways Protection Act 1989* is hereby repealed.

Consequential amendment

19. Section 7(2) of the *Traffic Act 2017* is amended by inserting a new subsection immediately after to be read as follows, “The Kiribati Land Transport Authority as established under section 4 of the *Public Highways Protection Act 2018* is a designated licensing authority for the area of South Tarawa and Betio and any other area(s) to be determined from time to time by notice by the Minister responsible for the Kiribati Land Transport Authority”.

Transitional

20. Nothing in this Act shall in any way invalidate actions and decisions made by the Highway Authority before the commencement of this Act.

EXPLANATORY MEMORANDUM

Part I deals with the Preliminary matters and contains the short title of the Act, the commencement and the definitions of the terms used in the Act. This Act applies to Highways in Kiribati.

Part II establishes the Kiribati Land Transport Authority which is a body corporate with perpetual succession with a seal and can sue and be sued in its own name. As usual there is a Board to govern the operations of the Authority. The CEO and other staff are appointed to assist the Board and the Authority to carry out functions and responsibilities stated in the Act.

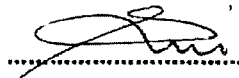
Functions and powers of the Authority are listed in sections 8, 9 and 10 and the Authority has a major function of protecting and developing the Highway. This part also laid out processes by which a person or bodies need to comply with when dealing with Highways. Further the Authority is given the power to deal with registration of vehicles and issue of driving licences as a designated licensing authority for South Tarawa and Betio and for other area(s) to be later designated to it. The fees and charges to be collected from the licence and registrations are to be deposited to the Authority's Development Fund for the maintenance and repair of the Highway and for other purposes as agreed to by the Board. Section 11 provides that any person aggrieved by the decision of the Authority can apply to the Magistrate Court for a review.

Part III deals with the establishment of the Development Fund of the Authority known as the Kiribati Land Transport Authority Development Fund. Maintenance in the Kiribati context is a stagnant process which most often comes at a later stage when the project or material object has fallen apart or cannot be maintained at all. With this concept in mind this Act put in place the Fund to continue the feasibility of the Highways and to ensure that there is funding available for maintenance and repair.

Part IV is the last part which deals with miscellaneous matters and mainly covers the power of the Minister to make regulations, the consequential amendment to the *Traffic Act 2017* and the repeal of the *Public Highways Protection Act 1989*. In this part, the Act also allows for prior actions and decisions made by the Highway Authority before the commencement of this Act to remain valid.

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression of the Public Highways Protection Act 2018 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 30th August 2018 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 30th August 2018 passed by the Maneaba ni Maungatabu on a Certificate of Urgency under section 68(3)(a) of the Constitution.



Hon. Tebuai Uai
Speaker of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this day of
..... 2018.



Eni Tekanene
Clerk of the Maneaba ni Maungatabu