

THE REPUBLIC OF KIRIBATI

(No. 7 of 1984)

I assent,

U. Tebai
Beretitenti.

8/12/1984

AN ACT TO PROVIDE FOR THE HOLDING OF REFERENDA

Commencement:

10 December 1984

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

Short title.	1. This Act may be cited as the Referenda Act 1984.
Referenda to which this Act applies.	2. This Act applies to and in relation to - (a) any referendum under Section 59 of the Constitution, whether an elected member of the Maneaba ni Maungatabu should vacate his seat in the Maneaba; and (b) any referendum under Section 69(3) of the Constitution, as to a Bill to alter Chapter II of the Constitution.
Questions at referenda.	3(1) The question for decision by a referendum referred to in Section 2(a) shall be - "that _____ (naming the elected member) should vacate his seat in the Maneaba ni Maungatabu". (2) The question for decision by a referendum referred to in Section 2(b) shall be - "That the _____ (identifying the Act) to amend the Constitution should be supported?" (3) In either case, the precise form of the question shall be decided by the Electoral Commission.
Voters at referenda	4(1) The persons entitled to vote in a referendum referred to in Section 2(a) are the persons referred to in Section 59(3) of the Constitution, that is to say, all persons who were registered as electors, at the time of the last election of the member of the Maneaba ni Maungatabu to whom the referendum relates, in the electoral district from which that member was last elected.

(2) The persons entitled to vote in a referendum to which Section 2(b) applies are the persons referred to in Section 69(3) of the Constitution, that is to say, all persons who are registered as electors for the purposes of a general election.

Conduct of referenda.

5(1) Subject to this section, a referendum referred to in Section 2(a) shall be conducted by the Electoral Commission in the same way as a bye-election to fill a vacancy in the seat of a member of the Maneaba ni Maungatabu for the electoral district concerned, and the Elections Ordinance and the regulations made under it, with the necessary modifications, apply accordingly.

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(2) Subject to this section, a referendum referred to in Section 2(b) shall be conducted by the Electoral Commission (but not under the superintendence of the Chief Justice) in the same way as the election of a Beretitenti, and the Election of Beretitenti Act and the regulations made under it, with the necessary modifications, apply accordingly.

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(3) In the application, by virtue of subsections (1) and (2), to a referendum of the Elections Ordinance and the Election of Beretitenti Act, and of the regulations made under them -

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- (a) references to an election shall be read as references to a referendum; and
- (b) references to ballot papers shall be read as references to ballot papers containing the question for decision in the referendum.

(4) The Electoral Commission may, by order published in the Gazette make such modifications as to the Elections Ordinance and the Election of Beretitenti Act, and to the regulations made under them, as seem to it necessary or expedient for adapting them to referenda referred to in Section 2.

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Result of referenda.

6(1) As provided in Section 59(4) of the Constitution, if in a referendum referred to in Section 2(a) a majority of those entitled (as set out in Section 4(1)) to vote in that referendum vote for the removal from the Maneaba ni Maungatabu of the member named in the petition, the member shall vacate his seat forthwith.

(2) As provided in Section 69(3) of the Constitution, the Bill the subject of a referendum referred to in Section 2(b) shall not come into operation unless it is supported by the votes of not less than two thirds of all the persons entitled (as set out in Section 4(2)) to vote in the referendum.

(3) The result of a referendum referred to in Section 2 shall be announced by the Electoral Commission.

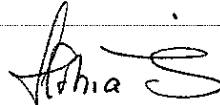
The printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 19th day of November, 1984 and is found by me to be a true and correctly printed copy of the said Bill.



Clerk to the Maneaba ni
Maungatabu

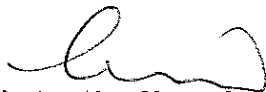
Published by exhibition -

(a) at the Public Office of the Beretitenti
this 10th day of December 1984.



Secretary to the Cabinet.

(b) at the Maneaba ni Maungatabu this
10th day of December, 1984.



Clerk to the Maneaba ni
Maungatabu.

THE REFERENDA ACT 1984

EXPLANATORY MEMORANDUM

1. Sections 59 and 69(3) of the Constitution requires that referenda must be held and conducted upon the happening of certain events as specified under those sections. In so far as section 59 of the Constitution is concerned a referendum must be held and conducted if a petition is lodged with the Speaker for the removal of a member of the Maneaba ni Maungatabu.
2. Additionally Section 69(3) of the Constitution provides that an Act which purports to alter Chapter II of the Constitution shall not come into operation unless the Act is submitted to a referendum and unless it is supported by the votes of not less than two thirds of all the persons entitled to vote in the referendum.
3. Although the Constitution is clear and specific as to the requirement of a referendum to be held and conducted under the aforesaid provisions of the Constitution presently no legislation exists to carry those provisions into effect. A gap therefore exists in our law which needs filling in by legislation.
4. The object of this Act therefore is to seek to fill in that gap. As such it provides for the conduct of referenda in terms of sections 59 and 69(3) of the Constitution (clause 2).
5. Apart from the Constitution itself our laws relating to elections are contained in the Elections Ordinance and the Election of the Beretitenti Act. This Act, to avoid unnecessary repetition of what is already on our statute books provides in clause 5 for these election laws to apply to the conduct of the aforesaid referenda.

Michael Neaua Takabwebwe
The Attorney General

LEGAL REPORT

I hereby certify my opinion that none of the provisions of the above Act conflict with the Constitution and that the Beretitenti may properly assent to the Act.

Michael Neaua Takabwebwe
The Attorney General
6 April 1984