

REPUBLIC OF KIRIBATI
(No 2 of 2007)

I assent,

Audo Tang

Beretitenti

04/09/2007

AN ACT TO AMEND THE *BIRTHS, DEATHS AND MARRIAGES REGISTRATION ORDINANCE*; TO PROVIDE A MORE EFFECTIVE SYSTEM FOR EVIDENCING CHANGES OF NAME; TO PROVIDE FOR REGISTRATION OF CUSTOMARY ADOPTIONS; AND TO PROVIDE FOR KEEPING OF RECORDS CONCERNING MARRIAGES SOLEMNISED AND DEATHS OCCURRING OUTSIDE KIRIBATI

Commencement:

2007

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

1. Short title

This Act may be cited as the *Births, Deaths and Marriages Registration (Amendment) Act 2007*.

2. Meaning of 'principal Act'

In this Act 'the principal Act' means the *Births, Deaths and Marriages Registration Ordinance (Cap.5)*

3. Amendment of section 17

Section 17 of the principal Act is amended by inserting a new paragraph (ba) as follows—

"if the child has been registered in another country by attaching a birth certificate (or a duly certified copy thereof) from the country in which the child was born; or".

4. Substitution of section 22

Section 22 of the principal Act is repealed and the following section is substituted—

"22. Change of name

- (1) Where the birth of any child has been registered before the child has received a name the registrar may upon the application of the parent or guardian of the child within one year of the date of the registration, and on payment of the prescribed fee and on receipt of such evidence as the registrar may require, without any erasure of the original entry, enter in the register the name given to the child.
- (2) Where the name by which any person was registered is changed, the registrar may upon the application of—
 - (a) where the person has not yet attained the age of 18 years, the parent or guardian of the child; or
 - (b) in any other case, the person,on payment of the prescribed fee and on production to him of a statutory declaration made by the applicant setting forth such information as the registrar may require, without any erasure of the original entry, enter in the register particulars of the change of name.
- (3) The registrar must not approve an application under subsection (2) if he reasonably suspects that the change of name is sought for a fraudulent or other improper purpose.
- (4) A statutory declaration lodged with the registrar under subsection (2) shall be filed separately and maintained and preserved as a supplement to the register to which it relates.
- (5) Any person who makes an application under subsection (2) with intent to defraud any person commits an offence and is liable upon conviction to imprisonment for not more than seven years."

5. New section 22B

After section 22A of the principal Act (as inserted by section 2 of the *Births, Deaths and Marriages (Amendment) Act 1997*) the following section is inserted—

"22B. Registration of customary adoptions

- (1) Where a registrar receives a certificate issued by a magistrates' court under this section that a person whose birth is recorded in a register of births under this Ordinance has been adopted in accordance with customary law he shall, without any erasure of the original entry, enter in the register such particulars of the adoption as may be prescribed.

- (2) An application for a certificate that a person has been adopted in accordance with customary law shall be made to the magistrates' court for the district in which the person is ordinarily resident.
- (3) An application under this section is a land matter, and the magistrates' court hearing the application shall be composed (or ~~deemed to be composed~~) in accordance with section 7(4) of the *Magistrates' Courts Ordinance*.
- (4) On the hearing of an application under this section, after considering such evidence as the applicant may tender in support of the application, if the magistrates' court is satisfied that—
 - (a) the person to whom the application relates and the prospective adoptive parent or parents are of I-Kiribati descent;
 - (b) where the person to whom the application relates is under the age of 18 years—
 - (i) the natural parents of the person;
 - (ii) where one of the natural parents has died, the surviving natural parent; or
 - (iii) where both natural parents have died, the guardian or guardians of the person,
 - (c) the adoption of the person is in accordance with customary law, the magistrates' court may issue a certificate to the effect that the adoption is in accordance with customary law.
- (5) On receipt of a certificate issued under subsection (4) the registrar shall, without any erasure of the original entry, enter in the register the particulars of the customary adoption.
- (6) The fact that a customary adoption has not been registered under this section does not affect the validity of that customary adoption.
- (7) This section does not affect the application of clause 9 of the *Gilbert and Phoenix Islands Code*.
- (8) In this section 'customary law' has the meaning given by section 5 of the *Laws of Kiribati Act 1989*.

6. New section 32A

After section 32 of the principal Act, the following section is inserted in Part III—

"32A. Registration of deaths occurring outside Kiribati"

- (1) Where a person of I-Kiribati descent has died outside Kiribati the Registrar-General may, on an application made under this section and on payment of the prescribed fee, enter the particulars of the death in the register of deaths as if the death had occurred in Kiribati.

- (2) An application under this section may be made by the father, mother, brother, sister, spouse or child of the deceased.
- (3) No application under this section shall be considered except on provision to the satisfaction of the Registrar-General of the death certificate (or a duly certified copy thereof) from the country in which the person died certifying that the death has been registered in accordance with the laws of that country.
- (4) All documents lodged with the Registrar-General under this section shall be filed separately and maintained and preserved as a supplement to the register to which it relates."

7. New section 33A

After section 33 of the principal Act, the following section is inserted in Part IV—

"33A. Registration of marriages solemnised outside Kiribati

- (1) Where a marriage has been solemnised outside Kiribati and at least one of the persons married is of I-Kiribati descent the Registrar-General may, on an application made under this section and on payment of the prescribed fee, enter the particulars of the marriage in the register of marriages as if the marriage had been solemnised in Kiribati under the *Marriage Ordinance*.
- (2) An application under this section may be made by one or both of the parties to the marriage.
- (3) No application under this section shall be considered except on provision to the satisfaction of the Registrar-General of the marriage certificate (or a duly certified copy thereof) from the country in which the marriage was solemnised certifying that the marriage has been solemnised in accordance with the laws of that country.
- (4) All documents lodged with the Registrar-General under this section shall be filed separately and maintained and preserved as a supplement to the register to which it relates."

BIRTHS, DEATHS AND MARRIAGES REGISTRATION (AMENDMENT) BILL 2006

EXPLANATORY MEMORANDUM

The object of the Bill is to have legal mechanism to formalize—

- (a) a change of name;
- (b) registration of customary adoption;
- (c) registration of deaths occurring outside Kiribati; and
- (d) registration of marriages solemnized outside Kiribati.

Clause 3 amends section 17 of the *Births, Deaths and Marriages Ordinance* ("the principal Ordinance") to strengthen the provisions for registration of overseas births, to prevent possible abuse.

Clause 4 repeals section 22 and inserts a new section addressing the change of name. While it is accepted that the need for a change of name may sometimes be for illegal or unlawful purposes, the amendment of subsections (3) and (5) empowers the Registrar not to approve applications if he or she reasonably suspects that the change of name is sought for fraudulent or other improper purpose and the person making an application with intent to defraud commits an offence and is liable for imprisonment for up to 7 years.

Clause 5 inserts a new section 22A allowing for registration of customary adoptions. A customary adoption not registered is still valid (subsection (6)). The registration of customary adoption does not affect the application of clause 9 of the *Native Lands Code* dealing with the right of adopted children to inherit land from their adoptive parents.

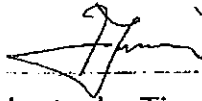
Clause 6 inserts a new section 32A dealing with registration of deaths occurring outside Kiribati. This is vital for statistics, record-keeping and for reference for those who may need it.

Clause 7 inserts a new section 33A dealing with registration of marriages solemnized outside Kiribati. Again this is vital for statistics, record-keeping and reference for those who need it.

Titabu Tabane
Attorney-General
19 October 2006

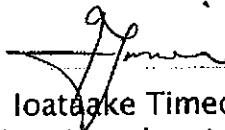
CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 31 May 2007 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 04th day
of September, 2007.



Ioataake Timeon
Clerk of the Maneaba ni Maungatabu