

REPUBLIC OF KIRIBATI
(No. 8 of 1995)

I assent,

Beretitenti
Assented: 23rd October 1995

AN ACT TO AMEND THE DANGEROUS DRUGS ORDINANCE (CAP 23)

Commencement:
1995

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

Short title

1. This Act may be cited as the Dangerous Drugs (Amendment) Act 1995.

Insertion of new section 8A

2. Section 8 of the Dangerous Drugs Ordinance (Cap 23) is amended by inserting a new section between section 8 and section 9 as follows –

“Possessing suspected property

8A. (1) A person who –

- (a) has in his possession any property reasonably suspected of being the proceeds of an offence under this Act; and
- (b) does not give an account satisfactorily to the court of how he lawfully came by or had such property in his possession,

commits an offence under this Act.

(2) A person found committing an offence defined in this subsection may be arrested without a warrant by a police officer.

(3) A person convicted of an offence under subsection (1) is liable to imprisonment for 2 years.

(4) Where a court is satisfied upon application made to it that a person –

- (a) has been convicted of an offence under subsection (1); or
- (b) is dead, cannot be found or is for any other reason not answerable to justice,

the court may order that the property be forfeited to the Republic and shall specify in any such order, other than an order in respect to money, the amount that it considers is the value of the property”

DANGEROUS DRUGS (AMENDMENT) ACT 1995

EXPLANATORY MEMORANDUM

1. The principal object of this Short Act is to amend the Dangerous Drug Ordinance (the Ordinance) to empower a court to order the forfeiture of property of money obtained by unlawful means or in possession of person who cannot satisfy the court of the lawful possession or acquisition of such property of money.
2. The recent prosecution and conviction by the Court for importation and possession of drugs has unfortunately highlighted the fact that Kiribati is now and in the future no longer immune as commonly believed for a long time from drug-trafficking and other associated evils relating to drug dealings which other pacific countries and the world at large had suffered and still suffered up to now. Consequently Kiribati will now need to broaden its horizon and vision as to future drug problems which are likely to invade our shores in the future.
3. One of the most common and recognized form or manifestation of a person having been involved in drug-trafficking or drug dealings generally is the possession or coming into possession of any suspected property or money,
4. In order to combat this problem it is proposed that the Dangerous Drugs Ordinance be so amended so that a person as described above (possessing suspected property) commits an offence under the Ordinance and on conviction by the Court is liable to imprisonment for a term of 2 years (8A(1)).
5. And further that the person found committing such offence can be arrested without a warrant by a police officer (8A(2)).
6. The Court is also empowered under the Act to order the property or money to be forfeited to the Republic (8A(4)).
7. At present there is no power under the Ordinance for a court to order the forfeiture of monies or properties obtained or in possession of a person without lawful excuse. And even though Section 39 of the Ordinance provides for forfeiture it does not however authorize forfeiture of monies or properties as now proposed in the Act.
8. This proposed Act has been based and modeled on the Australian, United Kingdom and the United States of America legislations which are designed to combat this growing expanding and significant trade and profits in drug-trafficking and dealings generally. These legislations have been in operation for sometimes now and are reviewed from time to time to take into account recent developments in the way drug dealers operate and behave in the world to day.

Michael N Takabwe
Attorney General
5 August 1995