

REPUBLIC OF KIRIBATI
(No. 7 of 1996)

I assent,

Beretitenti
Assented: 8th January 1996

**AN ACT TO AMEND THE PROCEEDINGS BY AND AGAINST THE
REPUBLIC ORDINANCE (Cap 76A)**

Commencement:
1996

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

Short title

1. This Act may be cited as the Proceedings by and against the Republic (Amendment) Act 1996.

Insertion of new section 4A

2. Section 4 of the Proceedings by and against the Republic Ordinance is amended by inserting a new section between section 4 and section 5 as follows:-

“Liability of the Republic in contracts and leases

4A. (1) Subject to subsection (2) and except as otherwise provided by written law (whether passed or made before or after the commencement of this section), no proceedings shall lie against the Republic in contract upon any agreement unless the agreement –

- (a) has been recorded in writing;
- (b) has been approved in writing by the Beretitenti, acting in accordance with the advice of the Cabinet; and
- (c) signed on behalf of the Republic by,
 - (i) the Beretitenti, or
 - (ii) the Minister for the time being responsible for the matter to which the agreement relates.

(2) Subsection (1) does not apply in relation to –

- (a) a contract under which the Republic is to pay or receive an amount less than \$10,000 or, if a higher amount is prescribed by regulation made by the Beretitenti, acting in accordance with the advice of the Cabinet, that higher amount; or
- (b) a lease or sublease of land for a period not exceeding 2 years.”

**PROCEEDINGS BY AND AGAINST THE REPUBLIC (AMENDMENT) ACT
1996**

Explanatory Memorandum

1. This Act seeks to amend the Proceedings by and against the Republic Ordinance (Cap. 76A) in order to put beyond doubt the legal position of the Republic (the Government) as when it actually becomes liable or not liable on contracts or leases which are entered into by Government Ministers or officials.
2. This amendment is indeed necessary in view of the past and recent difficulties which the Government is currently facing as the result of certain contracts and arrangements having been entered into without any proper supervision and scrutiny by the Cabinet.
3. Section 4A (1) therefore prevents any person to sue the Government for breach of contract unless the agreement –
 - (a) has been recorded in writing;
 - (b) has been approved in writing by the Beretitenti and the Cabinet; and
 - (c) signed, by the Beretitenti or the Minister responsible for the matter in question after it has been approved by the Cabinet under paragraph (b) above.
4. Section 4A (1) provides for the general position on Government contracts and leases. However there are many agreements in which small amount of monies are involved and unless these agreements are exempted under the law great difficulties would arise in the administration of this law. So in order to overcome these difficulties it proposed under this Act that a contract under which the Republic is to pay or receive an amount less than \$10,000 will not be caught by 4A (1) as it is exempted. The Beretitenti and His Cabinet however may increase such amount if they see fit to do so by prescribing such higher amount in a regulation. Section 4A (2)(a).
5. A lease or sublease of land for a period of more than 2 years will be caught under Section 4A (1) and thus will need to comply with the requirements of that section. (4A(2) (b)).

Michael N Takabwe
Attorney General
6 July 1995