

REPUBLIC OF KIRIBATI
(No. 2 of 2000)

I assent,

Beretitenti
Assented 09/07/2000

AN ACT TO AMEND THE MAGISTRATES COURTS ORDINANCE (CAP. 52)

Commencement: 2000

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

Short title

1. This Act may be cited as the Magistrates Courts (Amendment) Act 2000.

Amendment of section 2

2. Section 2 of the Magistrates Courts Ordinance (in this Act referred to as the Principal Ordinance”) is amended by –

- (a) inserting after the definition of “bailiff” a new definition as follows –

““boundary survey” means a cadastral survey of one or more of the boundaries of a plot of native land as determined by the court, carried out under the authority of the Director of Lands.”;

- (b) inserting after the definition of “Sheriff” a new definition as follows –

““Subdivision” means the division of land into two or more parts which are to be identified by survey, and can be disposed of separately, but does not include a subdivision of land created by a lease or sublease of land not exceeding five (5) years.”; and

- (c) by inserting a new definition after “suit” as follows –

“survey” or “survey diagram” means a cadastral survey carried out under the authority of the Director of Lands, on which there is indicated .

- (a) all of the boundaries of a plot of land;

- (b) the location of existing and proposed service lines and pipes belonging to the Public Utilities Board and the telecommunications authority; and,
- (c) the means of access to the plot approved by the Local Land Planning Board under section 20 of the Land Planning Ordinance; and,
- (d) the certification of the office of the Director of Lands; and,
- (e) reference to the relative Court minute number.”

Adding new Part VIA

3. There shall be inserted immediately after Part VI of the principal Ordinance a new Part VIA as follows .

“PART VIA – SALES, LEASES AND SUBDIVISIONS

Application

65A. (1) This part shall apply to South Tarawa and to only such areas as are from time to time designated under section 3 of the Land Planning Ordinance, in which the designation instrument specifically provides that this Part shall apply.

Procedures and Preconditions to the Approval of Sales

65B. (1) Before deciding to approve –

- (a) a sale of land under clause 14 of the Gilbert and Phoenix islands Lands Code,
- (b) a sale of land under clause 14 of the Gilbert and Phoenix Islands Lands Code which will result in the subdivision of land;
- (c) a native lease under section 11 or a sublease of the Native Lands Ordinance which will not result in a subdivision of land;
- (d) a native lease under section 11 or a sublease of the Native Lands Ordinance which will result in a subdivision of land;
- (e) a subdivision under section 20A of the Native Lands Ordinance.

the court, in addition to being satisfied as to the matters set out in the respective provisions of the Gilbert and Phoenix Islands Lands Code, and of the Native Lands Ordinance, must also be satisfied as to the following matters –

- (i) where the names of all co-owners of the plot to be sold or leased or subleased are not recorded in full in the Register of Native Lands, or all such owners are not present in Court, that information concerning the nature of the proceedings and the date of the hearing has been advertised twice on Radio Kiribati, the first advertisement at least 28 days from the date of the hearing, and the second at least 14 days, but no more than 28 days from the date of the hearing, and;
 - (ii) that duplicate copies of a survey of the land have been lodged with the court; and
 - (iii) that as to proceedings described in paragraphs 65B(1)(b), (d), and (e), permission has been granted under section 20 of the Land Planning Ordinance and the terms of the proposed subdivision before the court comply with the terms of the permission.
- (2) The approval of any subdivision by the court as in the matters described, in paragraphs 65B(1)(b),(d), and (e), shall not be valid until –
- (a) duplicate copies of the survey diagrams of each of the plots into which the land has been subdivided, have been lodged with the Court for filing; and
 - (b) stamped with a survey number and the date of deposit, and the court shall not make any changes to the Register of Native Lands until this has been done.

Other dealings in land

65C. (1) This section applies to any hearing under section 58 of this Ordinance which involves –

- (a) determination of a land boundary, or;
- (b) any matter, other than a matter subject to section 65B of this Ordinance, in which the court is required to determine who is entitled to an interest in land as a co-owner.

(2) Where the names of all co-owners of the plot to be sold or leased are not recorded in full in the Register of Native Lands, or all such owners are not present in Court, that information concerning the nature of the proceedings and the date of the hearing has been advertised twice on Radio Kiribati, the first advertisement at least 28 days from the date of the hearing and the second at least 14 days but no more than 28 days from the date of the hearing.

Surveys to be deposited by the Court

65D. (1) A determination under sections 58 (determination of a boundary), and 65B (sale and lease), shall not be valid until two copies of the boundary survey, the survey of the land, or the survey of the subdivided plots, as the case may be, have been lodged with the court for filing.

- (2) On duplicate copies of a survey being lodged under sub-section 65D(1), the court shall –
- (a) assign them a number;
 - (b) stamp them with this number and the date on which they were deposited;
 - (c) stamp the survey number on the court minute to which the survey relates;
 - (d) enter the survey number in the appropriate column of the register;
 - (e) retain one copy of the survey at the court; and
 - (f) forward the other copy of the survey to the Director of Lands”

MAGISTRATES COURTS (AMENDMENT) ACT 2000

EXPLANATORY MEMORANDUM

The amendments to this and the companion changes to the Native Lands Ordinance and the Land Planning Ordinance, are part of institutional strengthening of the lands and survey work particularly for South Tarawa. The changes to the three statutes are proposed in order to implement the fairer and more certain settling of dealings with land by owners, lessees, sublessee, neighbours and purchasers. This is accomplished by requiring a proper survey to be performed as approved by the Director of Lands, making sure that all people with an ownership interest have a chance to attend Court, and coordinating with Lands and Survey Division the effects of the approved dealing, to make sure that Court and Lands Division have similar records.

The added definition of the word “Subdivision” squares its use here with its use in the Land Planning Ordinance. The definition of “survey” means that the Court cannot proceed to complete an application until it has viewed a correct survey, certified through Lands and Survey Division.

Under section 65B sales, subdivisions, boundary determinations and leases and subleases cannot be completed by the Court until it is satisfied that proper efforts to notify all persons on the ownership, have been performed

Michael N. Takabwebwe
Attorney General
4 October 1999