

REPUBLIC OF KIRIBATI
(No. 8 of 2000)

I assent,

Beretitenti
Assented 9th July 2000

**AN ACT TO AMEND THE PUBLIC FINANCE (CONTROL AND AUDIT)
ORDINANCE (CAP. 79)**

Commencement:
2000

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

Short Title

1. (1) This Act may be cited as the Public Finance (Control and Audit) (Amendment) Act 2000.
- (2) This Act shall be deemed to have come into operation on 1 January 1990.

Amendment of section 47(2) of No.9 of 1993

2. Section 47(2) of the Public Finance (Control and Audit) (Amendment) Act 1993 (No. 9 of 1993) is amended by adding immediately after paragraph (b) a new paragraph (c) as follows –
 - (c) A Notice referred to in paragraph (a) shall be issued or delivered to a public officer within a period of twelve years
 - (i) for failure to collect any moneys etc., referred to in section 47(1)(a) of the Public Finance (Control and Audit) (Amendment) Act 1993 (No 9 of 1993); or
 - (ii) for improper payment etc., referred to~ in section 47(1)(b) of the Public Finance (Control and Audit) (Amendment) Act 1993 (No 9 of 1993); or
 - (iii) for negligence or misconduct, etc., referred to in section 47(1) (c) of the Public Finance (Control and Audit) (Amendment) Act 1993 (No 9 of 1993); or

- (iv) for any financial loss, etc. referred to in section 47(1)(d) of the Public Finance (Control and Audit) (Amendment) Act 1993 (No 9 of 1993); or
- (v) for failure to account for an imprest referred to in section 47(1)(e) of the Public Finance (Control and Audit) (Amendment) Act 1993 (No 9 of 1993).

Amendment of section 47(4)(b) of No. 9 of 1993

- 3. Section 47(4)(b) of the Public Finance (Control and Audit) (Amendment) Act 1993 (No 9 of 1993) is amended—
 - (a) by inserting “or make such other order as it may think fit.” between “surcharge” and “such decision of the High Court”; and
 - (b) by deleting “and such decision of the High Court shall be final.”

Amendment of section 4713

- 4. Section 47B of the Public Finance (Control and Audit) (Amendment) Act 1996 (No. 3 of 1996) is amended as follows —
 - (2) A Notice referred to in subsection (1) shall be issued or delivered to a member within a period of twelve years —
 - (a) after receipt by a member of any payment referred to in section 47A(2)(a) or (b) of the Public Finance (Control and Audit) (Amendment) Act 1996 (No. 3 of 1996); or
 - (b) after the discovery by the Government —
 - (i) of any financial loss etc., referred to in section 47A(2)(c) of the Public Finance (Control and Audit) (Amendment) Act 1996 (No 3 of 1996); or
 - (ii) of any improper payment etc., referred to in section 47A(2)(d) of the Public Finance (Control and Audit) (Amendment) Act 1996 (No 3 of 1996); or
 - (iii) of a member having failed to account for any money referred to in section 47A(2)(e) of the Public Finance (Control and Audit) (Amendment) Act 1996 (No 3 of 1996); or

- (iv) of any deficiency in or for any loss to any public moneys etc., referred to in section 47A(2)(f) of the Public Finance (Control and Audit) (Amendment) Act 1996 (No 3 of 1996); or
 - (v) of a member having failed to account for an imprest referred to in section 47A(2)(g) of the Public Finance (Control and Audit) (Amendment) Act 1996 (No 3 of 1996).
- (3) For the purposes of subsection (2)(a), where the payment to a member has been concealed by fraud, committed with or without his knowledge or consent, the limitation period of twelve years provided for in subsection (2) shall begin to run only when the Cabinet has discovered such fraud.”

Amendment of Section 47D(2)

- 5.** Section 47D(2) of the Public Finance (Control and Audit) (Amendment) Act 1996 (No 3 of 1996) is amended in section 47D(2)—
- (a) by inserting “or make such other order as it may think fit.” between “surcharge” and “any such decision”; and
 - (b) by deleting “and any such decision of the High Court shall be final.”

PUBLIC FINANCE (CONTROL AND AUDIT) (AMENDMENT) ACT 2000

Explanatory Memorandum

1. This short Act seeks to amend the Public Finance (Control and Audit) (Amendment) Act 1993 (No 9 of 1993) particularly section 47(2) and section 47B of the Public Finance (Control and Audit) (Amendment) Act 1996 (No 3 of 1996). Section 47(2) of No. 9 of 1993 provides for a public officer against whom the Minister proposes to make a surcharge, to be first of all served with a notice before imposing a surcharge on such public officer. Section 47B, on the other hand, provides for a member of the Maneaba ni Maungatabu against whom it is proposed to make a surcharge, to be first of all served with a prescribed notice before imposing a surcharge on such member.
2. Presently under the general statutory requirement as to the limitation of action it would seem that the notice to be served under section 47(2) of No 9 of 1993 and 47B(1) of No 3 of 1996 must be served within a period of six years after the receipt by the member of the kind of payments and discovery by the Government of any financial loss or improper payment etc., referred to in section 47(1) of No 9 of 1993 and section 47A(2) of No 3 of 1996.
3. Given the usual long delays and protracted investigations of any complex fraud or crime by the, authority in Kiribati, the limitation period of six years provided above seems to be far too short and therefore inadequate for Kiribati performance standard and thus it is recommended that a period of limitation of action of twelve years be endorsed. (Sections 2 and 4)
4. This proposed law when passed by the Maneaba ni Maungatabu shall apply to any act or thing done on and after 1 January 1990.

Michael N. Takabwebwe
Attorney General
18/6/00