

# **BUILDING ACT 2006**

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**REPUBLIC OF KIRIBATI**

**(№ 1 of 2006)**

I assent,

Beretitenti  
25/07/2006

**AN ACT TO REGULATE BUILDING WORK, AND FOR RELATED PURPOSES**

Commencement:  
2006

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

**PART I—PRELIMINARY**

**1. Short title**

This Act may be cited as the *Building Act 2006*.

**2. Commencement**

- (1) Subject to subsection (2), this Act shall come into force on such date as the Minister may, by notice published in the *Gazette*, appoint.
- (2) The Minister may appoint different days for the coming into force of this Act in relation to its application to different types of building work.

**3. Interpretation**

In this Act, unless the contrary intention appears—

‘building’ includes—

- (a) a structure on or attached to land, the lagoon bed or the sea bed;
- (b) an addition to a building;
- (c) a structure attached to a building; and
- (d) part of a building, whether the building is completed or not,

but does not include—

- (e) a bridge;
- (f) a road
- (g) a retaining wall associated with bridges, or roads;
- (h) a road traffic sign; or
- (i) electricity network distribution equipment;

‘building approval’ means a building approval issued under section 17, and includes the approved—

- (a) application for building approval;
  - (b) plans, drawings, specifications and any other information provided as part of the application for building approval,
- and any conditions imposed under section 17(3);

‘Building Code’ means the building code made under section 6;

‘building inspector’ means a building inspector appointed under section 20;

‘building work’ means work in relation to the erection, alteration, demolition or repair of a building, and includes disposal of waste materials generated;

‘certificate of occupancy’ means a certificate of occupancy issued by the Minister under section 12(2);

‘conduct’ means an act or omission;

‘estimated cost of building work’ means the cost of the building work as determined by the Minister after consultation with the applicant for the building approval, taking into account—

- (a) any contract for the building work,
- (b) any bill of materials relating to the building work; and
- (c) any other relevant information;

‘information’ includes plans, drawings and specifications;

‘occupier’ of premises means the person who has the management or control of the premises;

‘premises’ includes—

- (a) a building or structure; or
- (b) land or a place (whether enclosed or built on or not);

‘specifications’ means information relating to the construction and materials;

‘strict liability’ in relation to an offence means that no mental element need be proved to establish the offence, and the defence of honest and reasonable mistake of fact, as well as other defences contained in this Act or otherwise, are available to the defendant;

‘sustainability report’ means a report of the kind described in section 19.

#### **4. Extent of Act**

This Act applies throughout Kiribati.

#### **5. Act binds the Republic**

This Act affects the rights of and binds the Republic.

## **PART II—THE BUILDING CODE**

#### **6. The Building Code**

- (1) The Minister, acting in accordance with the advice of the Cabinet, may approve or amend a Building Code.

- (2) The Minister must publish a notice in the *Gazette* that a Building Code has been approved or amended under subsection (1).
- (3) The Minister must make a copy of—
  - (a) the Building Code; and
  - (b) any amendments made to the Building Codeavailable for inspection and purchase during normal office hours.

### **PART III—OBLIGATIONS**

#### **7. Building work to be carried out in accordance with the Building Code**

- (1) All building work must be carried out in accordance with the Building Code.
- (2) Any person who—
  - (a) carries out building work; or
  - (b) causes or allows building work to be carried out,contrary to subsection (1) commits an offence and is liable upon conviction to imprisonment for not more than 2 years and a fine not exceeding \$100,000.
- (3) An offence against subsection (2) is a strict liability offence.

#### **8. Buildings to be structurally sufficient, safe and stable**

- (1) A building must—
  - (a) be structurally sufficient, safe and stable for its intended use; and
  - (b) not pose a hazard to persons or property.
- (2) The owner of a building that does not comply with subsection (1) commits an offence and is liable upon conviction to imprisonment for not more than 2 years and a fine not exceeding \$100,000.
- (3) An offence against subsection (2) is a strict liability offence.

#### **9. Building work to be carried out in proper, skilful and safe ways**

- (1) All building work must be carried out in a proper, skilful and safe way.
- (2) Any person who—
  - (a) carries out building work; or
  - (b) causes or allows building to be carried out,contrary to subsection (1) commits an offence and is liable upon conviction to imprisonment for not more than 2 years and a fine not exceeding \$100,000.

#### **10. Building work to be carried out in accordance with building approval**

- (1) This section does not apply to building work—
  - (a) described in Schedule 1; or
  - (b) that has already commenced at the time this section comes into operation for that type of building work.

- (2) Building work must be carried out in accordance with—
  - (a) the building approval issued for that building work; and
  - (b) any sustainability report submitted as part of the application for building approval.
- (3) Any person who—
  - (a) carries out building work; or
  - (b) causes or allows the carrying out of building work,contrary to subsection (2) commits an offence and is liable upon conviction to imprisonment for not more than 2 years and a fine not exceeding \$100,000.
- (4) An offence against subsection (3) is an offence of strict liability.
- (5) In any prosecution for an offence against subsection (3), where it is alleged that the accused carried out building work, or caused or allowed building work to be carried out, without any building approval, it is for the accused to prove (on the balance of probabilities) that a building approval had been issued under section 16(1) in respect of that building work.

#### **11. Building work not to proceed past a stage without approval**

- (1) This section does not apply to building work—
  - (a) described in Schedule 1; or
  - (b) that has already commenced at the time this section comes into operation for that type of building work.
- (2) Building work must not proceed past a stage referred to in Schedule 2 without written approval from a building inspector.
- (3) Any person who—
  - (a) carries out building work; or
  - (b) causes or allows the carrying out of building work,contrary to subsection (2) commits an offence and is liable upon conviction to imprisonment for not more than 1 year and a fine not exceeding \$10,000.
- (4) An offence against subsection (3) is an offence of strict liability.

#### **12. Building not to be used until a certificate of occupancy has been issued**

- (1) This section applies only to buildings construction of which requires building approval.
- (2) The Minister may issue a certificate of occupancy in writing if satisfied that completed building work complies with this Act.
- (3) Any person who uses a building, or allows the use of a building, in respect of which a certificate of occupancy has not been issued commits an offence and is liable upon conviction to imprisonment for not more than 1 year and a fine not exceeding \$10,000.
- (4) An offence against subsection (3) is an offence of strict liability.

#### **13. False or misleading information**

Any person who provides information—

- (a) in response to a requirement, direction or request under this Act;
- (b) in the process of obtaining an approval (howsoever described) under this Act; or

(c) required by a condition of an approval (howsoever described) under this Act, knowing, or reckless as to whether, the information is false or misleading, commits an offence and is liable upon conviction to imprisonment for not more than 1 year and a fine not exceeding \$10,000.

**14. Obligations in relation to plans, drawings and tests, etc.**

- (1) This section does not apply to building work—
  - (a) described in Schedule 1.
  - (b) that has already commenced at the time this section comes into operation for that type of building work.
- (2) Any person who—
  - (a) carries out building work; or
  - (b) causes or allows building work to be carried out,on premises must ensure that a copy of plans, drawings, specifications and other information forming part of the building approval, with the building approval stamped or endorsed thereon, is kept at the premises.
- (3) Any person who undertakes any—
  - (a) test borings, test loadings or other investigations made to ascertain the permissible loadings on piles used in the building work, pile-driving operations, calculations of allowable loadings and details of the location of the piles; and
  - (b) test loadings and excavations made to ascertain the bearing capacity of the foundations for the building or proposed building, or building as proposed to be altered;
  - (c) test required as a condition of a building approval;
  - (d) test required by a building inspector,must submit a copy of the results of the test to the Minister and keep a copy of the results of the test until a certificate of occupancy for the building is issued.
- (4) A person who engages in conduct contrary to subsection (2) or (3) commits an offence and is liable upon conviction to a fine not exceeding \$10,000.
- (5) Offences against subsection (2) and subsection (3) are offences of strict liability.

**PART IV—BUILDING APPROVALS**

**15. Applications for building approval**

- (1) The—
  - (a) owner of land; or
  - (b) the lawful occupier of land,may apply to the Minister for building approval in relation to any building work on that land.
- (2) An application for building approval must include—
  - (a) a completed application substantially in accordance with the form set out in Schedule 3;

- (b) plans, drawings and specifications and other information required by Schedule 3;
  - (c) where the building approval relates to the erection of a building with an estimated cost of building work of \$200,000 or more (or such other amount as may be prescribed by regulation), a sustainability report in accordance with section 19; and
  - (d) a fee of—
    - (i) \$20; or
    - (ii) 0.25 per cent of the estimated cost of building work, whichever is the greater.
- (3) The Minister may waive or reduce the fee required to be paid under subsection (2)(d).
- (4) The Minister must forward any sustainability report included in an application to the Minister for the time being responsible for the environment before considering the application.

## **16. Request for additional information**

- (1) At any point after receiving an application for building approval, but before a building approval has been granted, the Minister may, in writing to the applicant—
- (a) request additional information in relation to the application; or
  - (b) suggest changes to the application.
- (2) An applicant for a building approval must supply any additional information requested under subsection (1)(a).
- (3) Where the Minister has suggested changes to the application, the applicant for a building approval must—
- (a) submit a revised application; or
  - (b) notify the Minister in writing that no changes will be made to the application.
- (4) Where the Minister has made a request for additional information under subsection (1)(a), the Minister is not required to make any further decisions in relation to that application until the applicant has provided that information.
- (5) Where the Minister has made a suggestion under (1)(b), the Minister is not required to make any further decisions in relation to that application until the applicant has submitted a revised application or notified the Minister in writing that no changes will be made to the application.

## **17. Issuing building approval**

- (1) Where the Minister is satisfied that—
- (a) the application for building approval meets the requirements of this Act; and
  - (b) the proposed building work meets the requirements of the Building Code,
- the Minister must within a reasonable period issue a building approval in respect of the building work.
- (2) Upon issuing a building approval the Minister shall return to the applicant two copies of all approved plans, specifications and other information with the building approval stamped or endorsed thereon.

- (3) The Minister may issue a building approval subject to conditions that the Minister considers appropriate.
- (4) Without limiting subsection (3), conditions may relate to—
  - (a) safety;
  - (b) health;
  - (c) noise;
  - (d) working times;
  - (e) lighting requirements;
  - (f) materials storage;
  - (g) drainage;
  - (h) use of any roadway; and
  - (i) dust control.
- (5) All building approvals are subject to the condition that the building approval lapses unless building work commences within one year of the issuance of the building approval.

## **18. Variation and termination**

- (1) The Minister may vary or amend a building approval—
  - (a) upon an application in writing from the person to whom the building approval was issued; or
  - (b) on the Minister's own motion.
- (2) An application by a person for an amendment to a building approval must be accompanied by the fee that would be payable under section 15 if the application was an application for a building approval.
- (3) The Minister may waive or reduce the fee required by subsection (2).
- (4) Any variation of or amendment to a building approval must be by notice in writing.
- (5) The Minister may, by notice in writing to a person to whom a building approval has been issued, terminate the building approval.

## **19. Sustainability reports**

- (1) A sustainability report must include—
  - (a) expected electricity usage of the building and details of building features designed to conserve or generate electricity;
  - (b) expected water usage of the building, and details of building features designed to conserve or collect water;
  - (c) details of building features designed to reuse waste water;
  - (d) details of materials to be used in the building including—
    - (i) durability;
    - (ii) the environmental impact of sourcing the materials; and
    - (iii) whether the materials can be reused or recycled at the end of the building's life;
  - (e) details of—
    - (i) the waste that will be generated by the construction process;

- (ii) measures to minimise the waste; and
  - (iii) procedures for dealing with the waste;
  - (f) details of building features designed to improve indoor air quality;
  - (g) details of how the building has been designed for additions and reconstruction;
  - (h) consideration of the effects that climate change may have on the building; and
  - (i) any other matter as may be prescribed by regulation.
- (2) The Minister may prepare guidelines for completing sustainability reports.

## **PART V—ENFORCEMENT**

### **20. Building inspectors**

- (1) Subject to section 99 of the *Constitution*, the Minister may, by instrument in writing, appoint a suitably qualified person (including a class of persons) as a building inspector.
- (2) The Minister may, by instrument in writing, place conditions on the exercise of any power, duty or function by a building inspector (including a class of building inspectors).
- (3) Any instrument made under this section must, in due course, be published in the *Gazette*.
- (4) Any building inspector, in exercising his or her powers, duties and functions, must act in accordance with any directions of the Minister.

### **21. Impersonating building inspectors**

Any person who falsely represents himself or herself to be a building inspector commits an offence and is liable upon conviction to imprisonment for not more than two years and a fine not exceeding \$50,000.

### **22. Reason for exercising powers**

A building inspector may only exercise his or her powers, duties and functions under this Act for the purpose of administering this Act.

### **23. Obstructing, threatening, etc. a building inspector**

Any person who obstructs, intimidates, threatens, resists or hinders a building inspector exercising or performing his or her powers, duties or functions under this Act commits an offence and is liable upon conviction to imprisonment for not more than two years and a fine not exceeding \$10,000.

### **24. Protection of building inspectors and any assisting persons**

No criminal or civil proceeding shall lie against a building inspector, or any person assisting a building inspector, for any act done in good faith and without gross negligence in exercising or performing his or her powers, duties or functions under this Act.

### **25. Building inspectors must give name and position**

Before or during the exercise of any power, duty or function under this Part, a building inspector must, if asked, provide his or her name and position.

## **26. Power to require name and place of residence**

- (1) A building inspector may direct any person who the building inspector reasonably suspects has contravened this Act to tell the building inspector his or her name and place of residence.
- (2) A person does not have to comply with a direction given under subsection (1) unless the building inspector has warned the person that failure to comply is an offence.

## **27. Powers in relation to premises**

- (1) A building inspector may only enter and remain on residential premises if the building inspector has—
  - (a) the permission of the occupier of the premises;
  - (b) a reasonable belief that a building on the premises is causing, or is eminently likely to cause, a hazard to persons or property; or
  - (c) a search warrant allowing such activities.
- (2) Except for residential premises, a building inspector may enter and remain on—
  - (a) premises at which the building inspector reasonably believes building work is being carried out – at any time;
  - (b) premises where the building inspector reasonably believes that a contravention of this Act has occurred, is occurring or is likely to occur – at any time;
  - (c) premises where the occupier of the premises has consented to the entry – in accordance with the consent; and
  - (d) premises in respect of which a search warrant has been issued – in accordance with the terms of a search warrant.
- (3) If a building inspector lawfully enters and remains on premises, the inspector may, for the purposes of inspecting buildings or building work—
  - (a) examine and search the premises and any equipment, structures, or other items on the premises; and
  - (b) take photographs, films, audio, video and other recordings.
- (4) If—
  - (a) a building inspector has entered premises with the occupier’s consent;
  - (b) the occupier withdraws his or her consent; and
  - (c) the building inspector cannot remain on the premises by virtue of any other paragraph of subsection (2),

the building inspector must leave the premises as soon as it is safe to do so.

## **28. Search warrants**

- (1) Where a building inspector has reasonable grounds to believe that a contravention of this Act has occurred, is occurring, or is likely to occur on premises the building inspector may apply to a magistrate or justice of the peace, by information on oath, for a search warrant in relation to the premises.
- (2) Where a magistrate or justice of the peace is of the opinion that a search warrant should be granted, the magistrate or justice of the peace may issue a search warrant.

- (3) Unless specifically stated in the search warrant, the warrant allows the building inspectors named in the warrant to—
  - (a) enter the premises at any time period specified on the warrant;
  - (b) use such force as necessary to enter the premises and exercise any powers under this subsection;
  - (c) acquire such assistance as the building inspector considers reasonable or necessary to execute the warrant;
  - (d) exercise any of the powers contained in section 27(3).
- (4) The search warrant may allow a building inspector to exercise any other power the magistrate or justice of the peace considers appropriate by stating the power in the warrant.
- (5) As soon as practical after entering premises under warrant, a copy of the warrant must be given to a person who is apparently the occupier of the premises, or, if that is not possible, left in a conspicuous place at the premises.

### **29. Power to ask for information and records**

- (1) A building inspector may, verbally or in writing, require a person to—
  - (a) answer a question; or
  - (b) provide information or records in written or other form,for the purpose of any matter connected with this Act.
- (2) A person does not have to comply with a request given under subsection (1) unless the building inspector has warned the person that failure to comply is an offence.
- (3) Where a building inspector, acting under subsection (1), does not give a warning that failure to comply is an offence, any answer, information, or record provided, can be used in proceedings against the person providing the answer, information or record.
- (4) Where a building inspector, acting under subsection (1), gives a warning that failure to comply is an offence, any answer, information or record given cannot be used in proceedings against the person providing the answer, information or record.

### **30. Reasonable directions**

A building inspector may give any reasonable directions to any person to assist in the exercise of any powers, functions or duties under this Part.

### **31. Contravening a direction or request of building inspector**

- (1) A person who—
  - (a) has been given a direction or request by a building inspector; and
  - (b) does not follow that direction or request,commits an offence and is liable upon conviction to imprisonment for not more than three months and a fine not exceeding \$1000.
- (2) Subsection (1) does not apply if the person has a reasonable excuse for not complying with the direction.

### **32. Compliance notices**

- (1) A compliance notice is a notice requiring a person to—
  - (a) carry out specified actions by a particular time; or
  - (b) cease taking specified actions by a particular time.
- (2) A building inspector may issue a compliance notice to a person who the inspector reasonably believes is contravening, has contravened, or is likely to contravene this Act, if the inspector reasonably believes that the actions or omissions required by the notice will—
  - (a) prevent a contravention of this Act from occurring;
  - (b) provide information about whether a contravention of the Act has occurred or will occur; or
  - (c) prevent construction of or remove a building on an easement.
- (3) Without limiting subsection (1) or (2) a compliance notice may require the person to whom the notice is issued to—
  - (a) cease or not commence building work;
  - (b) conduct tests on the materials used or to be used in building work, on the structure of a building, or in relation to anything else connected with building work;
  - (c) modify, or carry out any work on any building;
  - (d) open, cut into, or pull down any building;
  - (e) demolish any building;
  - (f) cease the use of equipment or alter the way equipment is used;
  - (g) carry on building work in a particular manner;
  - (h) obtain building approval for any of the above;
  - (i) vacate a building;
  - (j) report to the Minister on any result or progress of any activity.

### **33. Form of compliance notices**

A compliance notice must be issued in writing.

### **34. Offence for non-compliance with compliance notices**

- (1) Any person who—
  - (a) has been issued a compliance notice; and
  - (b) does not comply with the notice,commits an offence and is liable upon conviction to imprisonment for not more than five years and a fine not exceeding \$100,000.
- (2) An offence against subsection (1) is a strict liability offence.

### **35. Appeal to the Minister regarding compliance notices**

- (1) A person to whom a compliance notice has been issued may appeal to the Minister in writing.
- (2) A notice of appeal may be sent to the Minister or given to a building inspector.

- (3) The Minister must, after receiving an appeal under subsection (1), by notice in writing to the person—
  - (a) vary or repeal the compliance notice; or
  - (b) confirm the compliance notice.
- (4) Any timeframe in a compliance notice does not run between the time when an appeal has been made and when the Minister notifies the person who lodged the appeal of his or her decision on the appeal.

### **36. Variation and revocation of compliance notices**

A building inspector or the Minister may vary or revoke a compliance notice issued to a person by giving a subsequent notice in writing to the person.

### **37. Injunctions**

- (1) If a person has contravened, is contravening, or proposes to contravene this Act, any person may apply to a court for an injunction.
- (2) If the court is satisfied that a person has, is, or proposes to contravene this Act, the court may grant an injunction—
  - (a) restraining the person from engaging in conduct which would constitute a contravention of this Act; or
  - (b) require the person to do an act, which if not done, would constitute a contravention of this Act.
- (3) Before deciding an application under this section, the court may grant an interim injunction—
  - (a) restraining a person from engaging in conduct; or
  - (b) requiring a person to do an act.
- (4) On application, a court may discharge or vary an injunction or interim injunction.
- (5) Powers given to a court under this Act do not limit any other powers of the court.

## **PART VI—PROVISIONS RELATING TO OFFENCES**

### **38. Certain persons deemed to allow activities**

In relation to an offence under this Act—

- (a) a person responsible for directing building work is deemed to allow that building work;
- (b) if premises are owned by the Republic, the occupier of the premises is deemed to allow conduct on those premises;
- (c) if premises are owned by a person other than the Republic, the occupier and owner of the premises are deemed to allow conduct on those premises.

### **39. Continuing contraventions**

If there is a contravention of this Act that occurs over more than one day, each day that the contravention continues is a separate contravention.

#### **40. Actions by officers, employees or agents**

An act or omission by a person—

- (a) while an officer, employee or agent of another person; and
- (b) while acting within the scope of his or her actual or apparent—
  - (i) responsibilities to the other person; or
  - (ii) authority from the other person,

is deemed also to be an act or omission of that other person.

#### **41. Actions by a body corporate**

- (1) If a body corporate contravenes any provision of this Act, each person who is a director of the body corporate or who is concerned in the management of the body corporate is taken to have contravened the same provision, unless the person satisfies the court that—
  - (a) the body corporate contravened the provision without the actual, imputed or constructive knowledge of the person;
  - (b) the person was not in a position to influence the conduct of the body corporate in relation to its contravention of the provision;
  - (c) the person used all due diligence to prevent the contravention by the body corporate.
- (2) A person to whom subsection (1) refers may be proceeded against and convicted of an offence against this Act whether or not the body corporate connected to the person has been proceeded against or convicted.
- (3) Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a body corporate (while acting in his or her capacity as such) had, at any particular time, a particular mental state, is evidence that the body corporate had that mental state.

#### **42. Defences**

- (1) It is a defence to an offence under this Act if—
  - (a) the conduct giving rise to the offence was authorised or required by—
    - (i) a building approval or any reports, plans, specifications, conditions or other information part of that approval;
    - (ii) a direction or request of a building inspector;
    - (iii) any conduct required by a compliance notice.
  - (b) the person who is being prosecuted for the offence—
    - (i) did not knowingly or intentionally cause or allow the offence; and
    - (ii) could not reasonably have known that the offence was occurring; or
  - (c) the conduct giving rise to the offence was reasonably necessary to deal with an emergency involving a serious threat to human life or property.
- (2) The accused has the responsibility of establishing defence contained in subsection (1) by adducing or pointing to evidence that suggests a reasonable possibility that the defence exists.
- (3) If a defence is established, the prosecution must disprove the defence beyond reasonable doubt.

- (4) A person accused of committing an offence against this Act must, no less than 14 days before the appointed date of hearing, notify the prosecution of an intention to rely on a particular defence contained in this Act.

## PART VII—MISCELLANEOUS

### 43. Expanded jurisdiction of magistrates' courts

- (1) A magistrates' court may hear any proceedings brought in relation to this Act.
- (2) Despite anything to the contrary in any other Act, a magistrates' court may pass the following sentences in relation to proceedings under this Act—
- (a) a sentence of imprisonment not exceeding five years;
  - (b) a fine not exceeding \$5000; and
  - (c) both such imprisonment and fine.
- (3) A magistrates' court shall have power to issue an injunction or interim injunction under this Act.

### 44. Amendment of Schedules

The Minister, acting in accordance with the advice of the Cabinet, may amend Schedule 1, Schedule 2 or Schedule 3 by notice in the *Gazette*.

### 45. Public register of applications, licences, etc.

- (1) The Minister must keep a public register of every building approval.
- (2) The public register must be made available to be inspected and copied during normal office hours.

### 46. Delegation

- (1) The Minister may, by instrument in writing, delegate all or any of his or her powers or functions under this Act to any other public servant.
- (2) Any delegation under subsection (1) may be subject to conditions.
- (3) If a power or function has been delegated by the Minister, the delegate is, in the exercise or performance of a delegated power or function, subject to the directions of the Minister.
- (4) If the Minister has made a delegation under subsection (1), the Minister may, by instrument in writing, amend or revoke the delegation.

### 47. Regulations

- (1) The Minister may, acting in accordance with the advice of the Cabinet, make regulations prescribing all matters—
- (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Regulations made under this section may prescribe penalties for offences being terms of imprisonment not exceeding 10 years, fines not exceeding \$100,000, or both.

**SCHEDULE 1**

(Sections 10, 11 and 14)

**EXEMPT building work**

- (1) Building work in relation to the following buildings—
  - (a) a fence or wall if—
    - (i) the height measured from any point on the fence or wall to the ground is not more than 1.8 metres, excluding any part of the structure that is in the ground; and
    - (ii) it does not form an integral part of an enclosure for a swimming pool;
  - (b) a retaining wall, except for a seawall, if the height measured from any point at the top of the retaining wall to the lowest adjacent ground level is not more than 1.2 metres, excluding any part of the wall that is in the ground;
  - (c) an antenna, satellite dish or aerial assembly (being the aerial and its mast, tower and footing), if the height measured from the highest part of the assembly to the lowest is 5 metres or less, excluding any part of the assembly that is in the ground or is part of the building the assembly is mounted on; and
  - (d) a structure (for example, a barbeque or letterbox) if—
    - (i) it has a plan area not exceeding 2 square metres; and
    - (ii) the height measured from any point on the structure to the ground is not more than 1.8 metres, excluding any part of it that is in the ground;
  - (e) a water tank if—
    - (i) it has a capacity not exceeding 6000 litres; and
    - (ii) the height measured from any point on the tank to the ground is not more than 2.4 metres, excluding any part of the tank that is in the ground;
  - (f) a tent, marquee, stall or booth, if the building or structure is not intended to be, and has not been, at the place for longer than two months.
  - (g) prefabricated playground equipment;
  - (h) a dwelling house built using traditional methods and substantially from traditional materials where not more than 12 people will be ordinarily resident.
- (2) Paragraph (1) does not apply if the building proposed to be built adversely affects the provision of natural light or ventilation to any other building.

**SCHEDULE 2**

(Section 11)

**Stages of building work beyond which work must not proceed without approval**

- (1) For any building – site setout before any other building work is commenced
- (2) For buildings with reinforced concrete foundation – completion of excavation, placement of formwork and placement of steel reinforcing for the footings before any concrete for the footings is poured.
- (3) For buildings with foundations other than reinforced concrete – completion of excavation, and prior to concealment of foundation
- (4) For any building – completion of the structural framework and before the placement of any internal lining
- (5) For any building – completion of water supply piping, waste lines, septic tanks and soakways and electrical conduits prior to concealment
- (6) For any building – completion of placement of formwork, and placement of steel reinforcing, for any reinforced concrete member before any concrete for the member is poured.

**SCHEDULE 3**

(Section 15(2))

Official Use Only	
Approval number	
Date granted	
Fee paid	

**Application for Building Approval**

Applicant:		
Address (or registered office):		
Phone numbers:	Home:	
	Work:	
	Mobile:	
	Facsimile:	
Email address:		
Location of building work:	Plot name and number:	
	Village:	
	Island:	
Nature of building work (erection, alteration, demolition or repair):		
Purpose for which building is to be used:		
Cost of building work (Applicant's estimate):		

<u>Superintending architect/engineer</u> (if any):		
Address:		
Phone numbers:	Home:	
	Work:	
	Mobile:	
	Facsimile:	
Email address:		

<u>Builder:</u>		
Address:		
Phone numbers:	Home:	
	Work:	
	Mobile:	
	Facsimile:	

Email address:	
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## Application for Building Approval (continued)

Which of the following other approvals (if any) will be required for your building work—

- an authorisation to reclaim land under the *Foreshore and Land Reclamation Ordinance*
- planning permission under the *Land Planning Ordinance*
- development consent under the *Environment Act*
- any other approval or permission, please specify:

### Attachments

Three copies are required of each of the following—

- (1) Drawings including—
  - (a) plans of each floor level;
  - (b) elevations, sections and dimensions of the proposed building, or building which is the subject of the building work;
  - (c) the sizes and locations of structural members to a scale of not less than 1:100;
  - (d) where the building work involves alteration to an existing building, different line types to differentiate between the proposed altered and unaltered parts of the building;
  - (e) electrical and plumbing layout.
- (2) If the building work involves construction - specifications describing materials and construction methods to be used in the proposed building work and such other information as is necessary to show that the building would, if constructed in accordance with the specifications and drawings, comply with the Building Code;
- (3) Allotment plans to scale of not less than 1:500 showing—
  - (a) the boundaries and dimensions of the allotment and any relevant easements;
  - (b) where the allotment is in relation to the nearest streets or access points;
  - (c) if the building work involves construction, the position and dimensions of the proposed building and its relationship to the boundaries of the allotment with details of the intended use of the building;
  - (d) where the building work involves demolition, the position and dimension of the building in relation to boundaries of the allotment and adjacent buildings or streets within 20 metres;
  - (e) any existing building on the allotment and adjoining allotments with details of the purposes for which the buildings are used;
  - (f) the levels of the allotment and of the floors of the building in relation to any adjoining street or access point; and
  - (g) the method of drainage proposed to be used.

- (4) If the building work is of a type that requires specific design under the Building Code—
  - (a) computations and reports to demonstrate that the structure or other design feature would if constructed in accordance with the computations and reports comply with the Building Code; and
  - (b) a certification from a person with a Bachelor of Engineering or equivalent in an appropriate field relevant to that specific design, that the plans, drawings and specifications are compliant with the Building Code.
- (5) Details of any proposed work for the protection of adjoining property and the public.
- (6) Proof of title to the allotment or evidence that the applicant is the lawful occupier of the allotment.
- (7) Where the building work involves demolition—
  - (a) where a part only of a building is to be demolished or removed, computations or other information to show that the remainder of the building will comply with the provisions of these Regulations either as it remains after the proposed demolition or removal takes place or after other building work is carried out;
  - (b) information showing the position and description of hoardings, barricades, temporary crossings, protective awnings and outriggers;
  - (c) a written description of the demolition procedure;
  - (d) evidence that the demolisher has the necessary knowledge, experience, equipment and storage facilities to properly conduct the demolition operations; and
  - (e) a waste management plan for the material generated.
- (8) If the estimated cost of the building work is \$200,000 or over, a sustainability report in accordance with section 19 of the *Building Act 2006*.

**BUILDING ACT 2006**

## EXPLANATORY MEMORANDUM

This Act seeks to implement measures to significantly improve the safety and standards of construction work in Kiribati.

There is provision in clause 2 for implementation of the legislation in phases, so that, if it is considered desirable, the legislation (and the Building Code which forms an integral part of the new regime) can apply initially to, for example, non-residential construction.

The Building Code, to be developed as subsidiary legislation under clause 6 of the Act, will provide for basic requirements and standards of structural sufficiency and safety. All building work must be carried out in accordance with the requirements of the Building Code (clause 7). Buildings must be structurally sufficient, safe and stable (clause 8), and building work must be carried out skilfully and safely (clause 9).

Approval for building work to which the Act applies must first be obtained from the Minister (or his delegate) (clauses 15 to 17) and the work must comply with the terms of the approval (clause 10). The building work must be inspected at various stages (as set out in Schedule 2), and work cannot continue until the building inspector approves the work done so far (clause 11). Once the building work is complete, a certificate of occupancy must be obtained before the building can be used (clause 12). It should be noted that there are certain types of building work, listed in Schedule 1, to which the requirements of clauses 10, 11, 12 and 14, and Part IV do not apply, such as fences, temporary structures and most dwelling-houses built using traditional methods and materials.

Where proposed building work is valued at more than \$200,000, the developer will also need to submit a sustainability report (clauses 15(2)(c) and 19) to enable the Minister to assess the environmental impact of the building work and the sustainability of its design.

Part V of the Act provides for the appointment and powers of building inspectors.

Part VI sets out who may be liable in the event of contraventions of the legislation, with clause 42 providing for defences to offences under the Act.

Part VII contains miscellaneous provisions covering: the amendment of the Schedules (clause 44); the requirement to keep a public register of building approvals and other documents (clause 45); delegation by the Minister of his powers and functions under the Act (clause 46); and the power to make regulations (clause 47).

Titabu Tabane  
Attorney-General  
2 November 2005