

REPUBLIC OF KIRIBATI
(No. 11 of 1999)

I assent,

Beretitenti
Assented: 21st March 2000

AN ACT TO AMEND THE PENAL CODE

Commencement:
2000

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

Short title

1. This Act may be cited as the Penal Code (Amendment) Act 1999.

Amendment of section 257

2. Section 257 of the Penal Code (in this Act referred to as the principal Act) is amended by inserting immediately after “electricity” —

- (a) a comma; and
- (b) the following words -

“water, radio waves, sound waves or any other utility available at a fee for public consumption and delivered by line, pipe, channel, conduit, aqueduct, or transmission, or other device,”.

Amendment of section 319

3. Section 319 of the principal Act is amended by repealing the whole of section 319 and substituting a new section 319 as follows:

“Destroying or attempting to destroy etc property

319. (1) Any person who wilfully and unlawfully destroys or damages any property whether belonging to himself or another intending to destroy or damage such property, or being reckless as to whether such property would be destroyed

or damaged, is guilty of a misdemeanour and shall be liable, to a fine of \$5,000.00 or to imprisonment for 5 years or both.

(2) Any person who wilfully and unlawfully destroys or damages any property whether belonging to himself or another –

- (a) intending to destroy or damage such property or being reckless as to whether such property would be destroyed or damaged; and,
- (b) the damage or destruction of that property is likely to put at risk the safety of another;

is guilty of a felony and shall be liable to a fine of \$20,000 or to imprisonment for 20 years or both.

(3) Where a person commits an offence under subsection (1) and the property in question is:

- (a) a testamentary instrument, whether the testator is living or dead; or
- (b) a register or part of such register which is authorised or required by law to be kept for authenticating or recording the title to any property, or for recording birth, baptism, marriage, death or burial; or
- (c) a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land;

such person is guilty of a felony and shall be liable to a fine of \$25,000 or to imprisonment for 20 years or both.

(4) Any person who wilfully and unlawfully destroys or damages any property whether belonging to himself or another,

- (a) intending to destroy or damage such property or being reckless as to whether such property would be destroyed or damaged; and
- (b) intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would thereby be endangered;

is guilty of a felony and shall be liable to a fine of \$30,000 or to imprisonment for 25 years or both,

(5) Any person who attempts to destroy or damage:-

- (a) any property is guilty of a misdemeanour and shall be liable to a fine of \$3,000 or to imprisonment for 3 years or both; or
- (b) any property described in subsection (2) is guilty of a felony and shall be liable to a fine of \$10,000 or to imprisonment for a time of 10 years or both; or
- (c) any property described in subsection (3) is guilty of a felony and shall be liable to a fine of \$12,000 or to imprisonment for 10 years or both; or
- (d) any property described in subsection (4) is guilty of a felony and shall be liable to a fine of \$15,000 or to imprisonment for 12 years or both”.

PENAL CODE (AMENDMENT) ACT 1999

Explanatory Memorandum

1. Kiribati has experienced increasing episodes of vandalism and property damage. This is particularly serious in respect to public property. The Government is very concerned about this problem in general, and the most obvious examples are damage to and stealing from the water pipes, and the damage to the airport surrounds, which puts at risk the country's ability to have regular air service with the rest of the world.

2. As part of a consultation with the Office of the Attorney General, the Police, the Ministry of Works and Energy and the Ministry of Information, Communication and Transport, better and new enforcement and prosecution strategies are being put in place. This general review has also shown that a clarifying and up dating of the Penal Code and related legislation is necessary. The legislation will increase the penalties for different types of property damage, and it will simplify the range of offences, taking a modern drafting approach.

3. As the result of the above review it was considered necessary to modify section 319 of the Penal Code. This section deals with the basic crime of causing property damage which now carries a penalty of 2 years and unlimited fine which shall not be excessive. It will be seen therefore that the proposed change however seeks to increase the penalty to a fine of \$5000 or to imprisonment for 5 years or both in section 319(1). (Section 3)

4. The new section 319(2) creates a new offence of damaging property of which property damage is likely to put at risk the safety of any person. This will cover in clear and simple terms the situation of offenders who destroy property of value and importance to the community, which is for the public good, like street signs and navigation lights. The penalty here will be a maximum of \$20,000 and 20 years in prison or both. (Section 3)

5. On the other hand a new section 319(3) concerns damage to special property like public registries, title deeds and wills. This repeats the old section 319(4) and (7) but increases the penalty from 14 years to \$25,000 or imprisonment for 20 years or both. (Section 3)

6. Section 319(4) is the most serious level of property damage, where the damage has the consequence of endangering life. In this case the maximum penalty is \$30,000 or 25 years prison or both. (Section 3)

7. Section 319(5) deals with attempts to destroy or damage property and as such the penalties provided under this subsection are less severe than those provided in section 319(1), (2), (3) and (4). (Section 3)

8. It is expected that these high maximum jail terms will signal to the offenders and the Courts that tougher sentences are necessary to prevent further increases in this problem. It is expected the high jail terms would be used only in the most serious cases.

9. Other changes include a change to section 257, to add to the theft of electricity section, theft of water and theft of other public utility assets. Also the offence provisions of the Public Utilities Ordinance are to be amended to bring the penalties there in line with the new penalty of \$5,000 and 5 years to be available for basic property damage under section 319(1), and theft of a public utility under the changed section 257 of the Penal Code. (Section 2)

Michael N. Takabwe
Attorney General
16 November, 1999