

REPUBLIC OF KIRIBATI

(No. 9 of 2004)

I assent,

Beretitenti

03/02/2005

AN ACT TO LEVY DEPOSITS IN RESPECT OF THE RECOVERY OF WASTE MATERIALS IN KIRIBATI; AND FOR CONNECTED PURPOSES

Commencement:

2004

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

**PART I
PRELIMINARY**

Short title

1. This Act may be cited as the Special Fund (Waste Material Recovery) Act 2004.

Interpretation

2. In this Act unless the context otherwise requires –

“deposit” means a deposit leviable under this Act;

“the Special Fund” means the Special Fund established pursuant to section 7.

**PART II
DEPOSITS**

Power to levy Deposits for waste material recovery

3. (1) The Minister responsible for environment acting in accordance with the advice of the Cabinet may, subject to the provisions of this Act, levy Deposits in respect of prescribed materials for waste material recovery.

(2) Deposits levied under subsection (1) of this section shall be laid before the Maneaba ni Maungatabu within forty-eight hours of the day on which the next meeting of the Maneaba commences and shall come into operation on publication unless the Maneaba by resolution amends it or rejects it as the case may be.

Orders relating to Deposits

4. (1) The Minister responsible for environment acting in accordance with the advice of the Cabinet may by order make provision as to the classes of materials for recovery in respect of which the Deposits are to be levied and as to the scales and other provisions in accordance with which they are to be levied.

(2) An order made under subsection (1) of this section shall be laid before the Maneaba ni Maungatabu within forty-eight hours of the day on which the next meeting of the Maneaba commences and shall come into operation on publication unless the Maneaba by resolution amends it or rejects it as the case may be.

(3) Any such scales or other provisions may provide for Deposits to be levied at different rates by reference to such circumstances or combination of circumstances (whether relating to classes of materials, seasons of the year, days of the week, times of day or otherwise) as the Minister may consider appropriate.

(4) An order under this section may provide that materials of any description specified in that behalf in the order (notwithstanding that they are materials of a class specified in the order pursuant to subsection (1) of this section) shall be exempted from the payment of Deposits.

Regulations for waste material recovery scheme

5. (1) Provision may be made by regulations made by the Minister responsible for environment acting in accordance with the advice of the Cabinet, under this section –

- (a) for the designation of one or more places at which Deposits are to be paid;
- (b) as to the persons by whom such Deposits are to be paid and the manner in which they are to be paid;
- (c) for ensuring that materials in respect of which Deposits are leviable do not enter Kiribati without payment of the Deposit;
- (d) for regulating the recovery of materials, including expenditure on recovery of materials;
- (e) for general administration of waste material recovery in Kiribati.

(2) Regulations made in pursuance of paragraph (c) of subsection (1) may include provisions for prohibiting or otherwise preventing any such material from entering Kiribati or further entering Kiribati until any Deposit leviable in respect of the material has been paid.

(3) Any regulations made under this section may provide for a notice, specifying the classes of materials in respect of which Deposits are leviable, to be displayed at each place designated in accordance with subsection (1)(a) of this section.

PART III FINANCIAL PROVISIONS

Establishment of Special Fund

6. A Special Fund to be known as Waste Material Recovery Fund shall be established in accordance with section 107(2) of the Constitution and section 13 of the Public Finance (Control and Audit) Ordinance.

Payments into the Special Fund

7. There shall be paid into the Special Fund –

- (a) any money appropriated by the Maneaba ni Maungatabu for the purposes of the Fund; and
- (b) any monies collected as Deposits under this Act or orders or regulations made thereunder; and
- (c) any other money lawfully available to the Fund.

Payments out of the Special Fund

8. (1) There shall be paid out of the Special Fund –

- (a) the amount of any expenditure by the Republic on the costs of recovering waste materials; and
- (b) the expenses, as approved by the Minister responsible for finance with the concurrence of the Minister responsible for environment, of the administration and carrying into effect of the provisions of this Act.

(2) No money shall be paid out of the Special Fund except in accordance with a Warrant under the hand of the Minister responsible for finance authorising the Chief Accountant to issue the money to the accounting officer responsible for operating the Fund.

Control of the Special Fund

9. In the performance of his functions under this Part of this Act and under section 13 of the Public Finance (Control and Audit) Ordinance in relation to the Special Fund the Minister shall use his best endeavours to manage the Special Fund in such a way that, taking one year with another, the income of the Special Fund is not less than sufficient to meet its outgoings including depreciation charges.

Annual reports

10. (1) The Minister responsible for finance shall, before the end of each financial year, submit to the Maneaba ni Maungatabu –

- (a) a statement showing the estimated income and expenditure of the Special Fund for the current financial year; and
- (b) estimates of the income and expenditure of the Special Fund for the next financial year.

(2) The Minister responsible for finance shall, within six months after the end of each financial year, lay before the Maneaba ni Maungatabu a report dealing generally with the operations of the Special Fund during the preceding financial year and containing the audited statement of accounts for that financial year.

PART IV SUPPLEMENTARY PROVISIONS

Offences

11. Any person who –

- (a) wilfully refuses, or without reasonable excuse neglects or fails to pay a Deposit which he is required to pay under this Act or order or regulations made thereunder or wilfully avoids payment of any such Deposit; or
- (b) wilfully, with intent to defraud, claims or takes the benefit of any exemption from the Deposit (whether the exemption in question subsists by virtue of section 4(4) of this Act or otherwise) without being entitled to that benefit; or
- (c) in circumstances not falling within either of the preceding paragraphs, contravenes provisions of this Act or any orders or regulations made under this Act,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000 and in default of payment of such fine, to imprisonment for a term not exceeding 2 months.

Civil proceedings

12. Without prejudice to any proceedings under section 11, any Deposit which remains unpaid after it has become due for payment shall be summarily recoverable by the Republic from the person liable to pay the Deposit as a civil debt.

SPECIAL FUND (WASTE MATERIAL RECOVERY) ACT 2004

EXPLANATORY MEMORANDUM

This Act seeks to empower the Minister responsible for environment, acting in accordance with the advice of the Cabinet, by order to levy deposits for the recovery of waste materials from the importers of waste materials.

An order made by the Minister responsible for environment in respect of the levying of deposits shall be laid before the Maneaba ni Maungatabu within forty-eight hours of the day on which the next meeting of the Maneaba commences and shall come into operation on publication unless the Maneaba by resolution amends it or rejects it as the case may be.

Section 4 of the Act empowers the Minister responsible for environment to classify materials in respect of which deposits are to be levied and prescribe the scales and the criteria in accordance with which deposit are to be levied.

An order made by the Minister responsible for environment under Section 4 of the Act shall be laid before the Maneaba ni Maungatabu within forty-eight hours of the day on which the next meeting of the Maneaba commences and shall come into operation on publication unless the Maneaba by resolution amends it or rejects it as the case may be.

Sections 6, 7 and 8 establish a Special Fund (outside the Consolidated Fund) into which shall be paid, among others, all deposits collected in respect of the materials. All monies by the Republic to meet or defray costs of recovering the materials shall also be paid out of the said Special Fund.

Section 11 makes it an offence wilfully to refuse or neglect to pay a deposit which is required to be paid under this Act.

Titabu Tabane
Attorney General
4 May 2004

LEGAL REPORT

I hereby certify that in my opinion none of the provisions of the above Act conflict with the Constitution and that the Beretitenti may properly assent to the Act.

Titabu Tabane
The Attorney General