

THE REPUBLIC OF KIRIBATI  
(No. 6 of 1986)

I assent,

*M. Tabua*  
Beretitenti,  
13/10/1986

AN ACT TO AMEND THE COMPANIES ORDINANCE

Commencement:

13/10/86

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

Short title

1. This Act may be cited as the Companies (Amendment) Act 1986.

Amendments to  
Section 7

2. Section 7 of the Companies Ordinance (hereinafter referred to as "the principal Ordinance") is amended by -

(i) repealing in subsection (1) the words "calculated according to the following scale" and substituting "\$150 for every month or part thereof by which it is late";

(ii) repealing the whole of subsection (2) and substituting the following:

"(2) The directors of the company in default under subsection (1) shall jointly and severally be liable to pay such late fee and shall have no right to be indemnified by the company in respect thereof."; and

(iii) inserting a new subsection (3) as follows:

"(3) This Section shall not apply to Part V of this Ordinance."

Amendment to  
Section 22

3. Section 22 of the principal Ordinance is amended by inserting a new subsection (5) as follows:

"(5) If the Registrar has reasonable grounds to believe that a company has ceased to carry on business for a period exceeding 12 months, the Registrar may publish the name of the company in the "Gazette" and in a newspaper circulating in Kiribati or over the radio, and as

from 2 months from such publication the company shall be dissolved and struck off the Register unless prior thereto the company shall have provided an explanation satisfactory to the Registrar as to why it had not been carrying on business during such period or proved to the satisfaction of the Registrar that the company had been carrying on business during that period; and the directors of the company at the date of dissolution and any persons who were directors during the preceding 24 months shall on demand account to the Registrar for the manner in which the assets of the company were disposed of during such period and shall be jointly and severally liable for the discharge of all liabilities outstanding at the date of dissolution".

Amendments to  
Section 62

4. Section 62 of the principal Ordinance is amended by -

- (i) repealing in subsection (2) the words "the "Atoll Pioneer"" and substituting "a newspaper circulating in Kiribati or over the radio"; and
- (ii) inserting a new subsection (3) as follows:

"(3) If a company fails for two successive years to deliver its annual return to the Registrar within 2 months of the date by which such return had to be registered as provided by subsection (1), the Registrar may, without publishing the name of the company in the "Gazette" and a newspaper circulating in Kiribati or over the radio, by order strike the company off the Register and the company shall be thereby dissolved; and the directors of the company at the date of dissolution and any persons who were directors during the preceding 15 months shall on demand account to the Registrar for the manner in which the assets of the company were disposed of during such period and shall be jointly and severally liable for the discharge of all liabilities outstanding at the date of dissolution, including the fee which was payable in respect of the annual return in respect of which default has been made:

Provided that the Court on application being made to it by any such person who was a director may relieve any such person from any liability incurred or arising in respect of the period after the date on which he ceased to be a director."

Amendments to  
Section 63

5. Section 63 of the principal Ordinance is amended by -

- (i) in subsection (3)
  - (a) inserting immediately after the words "in writing of the auditors" the words "and the Registrar"; and

(b) repealing the words "or the auditor and, if the Court so directs, by the Registrar or" and substituting "the auditor or the Registrar and, if the Court so directs,"; and

(ii) inserting a new subsection (3A) as follows:

"(3A) The Registrar may inspect the books of account pursuant to subsection (3) in person or he may appoint in writing a person who in his opinion is suitably qualified to carry out such inspection and he shall report to the Registrar accordingly."

Amendments to  
Section 135

6. Section 135(3) of the principal Ordinance is amended by inserting immediately after the words "the Registrar may" in the first line the words ", for any reasonable cause, or".

Amendments to  
Section 140

7. Section 140 of the principal Ordinance is amended by -

(i) inserting in subsection (3) immediately after the words "establishment of the place of business", the words "pay to the Registrar such fee as may be prescribed and";

(ii) inserting a new subsection (4)(iii) as follows:-

"(iii) Without prejudice to any provision in this Ordinance whereby the failure to deliver any document to the Registrar for registration may affect the validity of the document or the power to which it relates, the Registrar shall only be empowered to accept such document upon payment of a late fee of \$50 for each day during which the default continues which shall be additional to the fee which may be prescribed for the registration of the document referred to in subsection (3)."; and

(iii) amending subsection (25) by:

(a) repealing the words "\$500" and substituting "\$2,000"; and

(b) repealing the words "\$50" and substituting "\$1,000".

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 25th day of September, 1986 and is found by me to be a true and correctly printed copy of the said Bill.



Clerk to the Maneaba  
ni Maungatabu

I certify that the above Bill was on the 25th day of September, 1986 passed by the Maneaba ni Maungatabu on a Certificate of Urgency under section 68(3) of the Constitution.



Speaker

Published by exhibition -

- (a) at the Public Office of the Beretitenti on the  
*22nd* day of *Oct* 1986.



Secretary to the Cabinet

- (b) at the Maneaba ni Maungatabu on this *22nd* day  
of *October*, 1986.



Clerk to the Maneaba  
ni Maungatabu.

COMPANIES (AMENDMENT) ACT 1986

EXPLANATORY MEMORANDUM

1. Section 2 amends Section 7 of the Companies Ordinance (Cap 10A) by increasing the late filing fees. The change effected by Section 2(iii) is linked to the change effected by Section 7(ii) under which new and higher late filing fees are provided for in respect of external companies.
2. Section 3 gives the power to the Registrar of Companies to strike a company off the Register if, for no good reason, it has ceased to carry on business for a period of a year.
3. Section 4(i) makes an amendment to Section 62 of Cap. 10A consequent on the non-publication of the "Atoll Pioneer". Section 4(ii) gives the Registrar the power, where a company is late for two successive years in registering its annual return, to strike such company off the Register without going through the publication procedure provided in Section 62(2) of Cap. 10A.
4. Section 5(i)(a) ensures that if the books of account of a company are to be kept at other than the registered office of that company, then the Registrar's approval is required. Section 5(i)(b) has the effect that the Registrar does not need a Court order to inspect such books of account. Section 5(ii) gives the power to the Registrar to appoint someone to inspect the books of account.
5. Section 6 gives the power to the Registrar for reasonable cause to compel a private company to have its accounts audited.
6. Section 7(i) provides for the payment of a fee for the registration of an external company. That fee may be laid down by Regulations under Section 8 of Cap. 10A. Section 7(ii), which is linked to the change effected by Section 2, lays down the late filing fees for external companies. Section 7(iii) increases the fines for breaches of Section 140 of Cap. 10A.

Michael Neaua Takabwebwe  
The Attorney General

LEGAL REPORT

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

Michael Neaua Takabwebwe  
The Attorney General  
9 July 1986.