

ELECTIONS ACT 2019

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REPUBLIC OF KIRIBATI
(No. of 2019)

AN ACT

entitled

ELECTIONS ACT 2019

I assent,

Beretitenti

An Act to regulate the conducts of the elections of the Members of the Maneaba ni Maungatabu and Local Government Council, and other connected purposes.

Commencement:
2019

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 Elections Act 2019.

Application and Commencement of Act

2. (1) This Act shall be read subject to the provisions of Part I of Chapter V of the Constitution.

(2) The Act shall come into force on the date appointed by notice by the Minister.

Interpretation

3. In this Act, unless the context otherwise requires —

"before an election" means the period commencing from the date the Electoral Commission issues a notice of election under section 17 until a date on which the poll is to be taken;

"candidate" means a person submitting himself, in accordance with this Act, for election as a member of the Maneaba ni Maungatabu or of a council;

"corrupt practices" means a fraudulent activity, especially an attempt to manipulate or influence an election and includes, but not limited to, bribery, personation, treating and undue influence.

"council" means a local government council established under the provisions of the Local Government Act;

"Court" means the High Court;

"during an election" means the period commencing from the date the poll is to be taken until the date when the final results in respect of a candidate or candidates for a particular ward has been declared;

"election" means an election of a member of the Maneaba ni Maungatabu or a member of a council, and includes a bye-election;

"election petition" means an application under section 60 of the Constitution or under section 44 of this Act; manipulate

"elector" means a person who is entitled to vote—

- (a) by virtue of section 64 or 118 of the Constitution at an election of a member of the Maneaba ni Maungatabu; or
- (b) by virtue of section 12 of this Act at an election of a member of a council, as the case requires;

"electoral district" means an electoral district constituted by section 9 ;

"Electoral Officer" means an Electoral Officer or Assistant Electoral Officer appointed under section 8 for the electoral district and, where the Chief Electoral Officer performs, by virtue of subsection (2), a function of an Electoral Officer, includes, in relation to the performance of that function, the Chief Electoral Officer;

"Minister" means the Minister responsible for the administration of the Act;

"mweaka, moanei or ririwete" means in accordance with Kiribati tradition and custom, the giving away or offering the maneaba gifts or its equivalent in cash of not more than \$20.00

"Population Register" refers to the register provided under the National Identity Registration Act 2018.

"register of electors" means a register compiled for a ward of an electoral district in accordance with regulations made hereunder;

"resident", in relation to an electoral district, means resident within that district for the purpose of section 64 of the Constitution;

"ward" means a ward of an electoral district constituted in accordance with section 10 .

Part II

Electoral Commission and Electoral Officers

Duties of the Electoral Commission

4. (1) Subject to the provision of the Constitution and this Act, the Electoral Commission has the duty, responsibility and authority in the registrations of electors for the election of members of the Maneaba ni Maungatabu and the conduct of elections in accordance with this Act, including responsibility with respect to the following matters:-

- (a) registration and transfer of registration of electors;
- (b) supervise the election process for members of the Maneaba ni Maungatabu;
- (c) monitoring and enforcing compliance with this Act;
- (d) ensuring that electors information and education programs are established from time to time to assist electors in the exercise of their rights and for the effective conduct of the election;
- (e) establish and maintain an impartial and independent electoral system for electors;
- (f) providing reasonable and appropriate advise on election matters to the Minister;
- (g) any other functions as conferred upon it by any other written law.

(2) Subject to any directions of the Electoral Commission under the powers conferred by section 63 (1) of the Constitution, the Chief Electoral Officer may, if he thinks it expedient to do so, perform any function under this Act of

an Electoral Officer in relation to the election of a member of the Maneabani Maungatabu.

Independence of Electoral Commission

5. (1) The Electoral Commission is independent and is not subject to the direction or control of any person or authority in the exercise of any functions or duty under this Act.

(2) Subject to subsection (1), the Electoral Commission may consult with the Minister or any other person on any matter.

Funding of the Electoral Commission

6. The Electoral Commission shall be provided with sufficient resources for a timely and effective performance of its duties and functions and shall be charge as a statutory expenditure.

Protection from liability

7. The Election Commission and all officers appointed under this Act for the purpose of administering an election shall not be personally liable for the action or omission done in good faith in the exercise of the functions and duties conferred by this Act.

Appointment of Electoral Officers

8. (1) There shall be a Chief Electoral Officer who shall be appointed, subject to section 99 of the Constitution, by the Minister by notice and who shall have and exercise, subject to any directions of the Electoral Commission under the powers conferred by section 63 (1) of the Constitution, the powers conferred on him or her by or under this Act.

(2) Subject to section 99 of the Constitution, the Chief Electoral Officer shall appoint an Electoral Officer for each electoral district and the Chief Electoral Officer may, in respect of any electoral district, appoint fit and proper persons to be Assistant Electoral Officers and those persons shall, subject to the directions of the Electoral Officer, have all the powers and functions of the Electoral Officer.

Part III

Electoral District, Wards and Registration

Electoral districts and return of elected representatives to the Maneaba ni Maungatabu

9. For the purposes of returning elected members to the Maneaba ni Maungatabu, Kiribati shall be divided into the 23 electoral districts specified in the first column of Schedule 1 and each electoral district shall consist of the area specified in relation to that electoral district in the second column of Schedule 1 and return the number of members specified in the third column of Schedule 1.

Wards

10. (1) The Chief Electoral Officer, in consultation with the Electoral Commission and in accordance with the advice of the Cabinet, shall by notice divide an electoral district into such number of wards as appear to him expedient or declare the whole of any such district to be 1 ward, and he may assign such name as may be appropriate to any ward so constituted.

(2) The Chief Electoral Officer shall take into account such views on the boundaries of wards as may be expressed to him by the inhabitants of the electoral district, and where the area proposed to be warded is within the area of authority of a council that council.

(3) The Chief Electoral Officer shall publish the description of the area of wards constituted by him under this section in such manner as appears to him to be adequate for the purposes of bringing the description of the area of each ward to the attention of its inhabitants.

Number of members of councils to represent each ward

11. For the purposes of returning members of a council, the Chief Electoral Officer shall, where a ward comprises or forms part of the area of authority of a council, specify by notice the number of members of such council who shall represent that ward.

Qualifications for registration and voting

12. (1) A person who is entitled under section 64 of the Constitution to be registered as an elector in an electoral district is entitled to be registered in respect of the ward within which he is resident at the time of registration.

(2) A person who is registered as an elector is entitled—

- (a) to vote at an election of a member of the Maneaba ni Maungatabu for the electoral district in which he is registered; and
- (b) where the ward in respect of which he is registered comprises or forms part of the area of authority of a council to vote at an election of a member of the council for that ward.

Qualification for automatic registration of electors

13. Subject to the provision of the Constitution and this Act, a person is qualified to be automatically registered as an eligible elector if he or she has attained the age of 18 and is a Kiribati citizen.

Automatic Registration of eligible electors

14. (1) A person who is registered in the Register for Births, or the Population Register maintained at the Office of the Registrar General of Births, Deaths and Marriages is, upon attaining the age of 18 , automatically entered into the Register of eligible electors maintained by the Electoral Commission.

(2) It is the duty of the Registrar General for Births, Deaths and Marriages to advise and provide such information, data and material for the benefit of the Electoral Commission in exercising its functions under the Constitution and this Act.

(3) The Register is to be updated from time to time following consultations between the Chief Electoral Officer and the Registrar General for Births, Deaths and Marriages.

Register of electors for each ward

15. (1) There shall be a register of electors for each ward of an electoral district which shall be compiled in accordance with the provisions of regulations made hereunder.

(2) No person may be registered in more than 1 ward whether in the same electoral district or otherwise.

(3) A person shall be entitled to be registered in respect of the ward:-

- (a) within which he resides at the time of registration, and subject to section 16(2) has been living thereat for a period of not less than one month;
- (b) is registered in the automatic register for electors; and, or

(c) has his or her name registered in the Register for birth or Population Register maintained by the Registrar General of births, deaths and marriages.

(4) The Electoral Commission may enquire into an application made for registration under subsection (3) and may endorse or reject such registration or advise on further action that may be required.

Transfer of registration

16. (1) A registered elector may apply to the Chief Electoral Officer or the Electoral Officer for the transfer of his or her name from the register of electors for the ward in which his or her name is entered, by completing a prescribed form and paying a prescribed fee.

(2) No transfer under subsection (1) shall be made within six months of the last transfer.

PART IV

ELECTIONS

Notice of election in elections for the Maneaba ni Maungatabu

17. (1) Whenever an election of a member or members of the Maneaba ni Maungatabu becomes necessary the Electoral Commission shall issue a notice of election which notice shall specify:-

- (a) a day on which the Electoral Officer for the electoral district shall receive nominations of candidates for election, which day shall not be earlier than 7 days from the date of the notice; and
- (b) a day on which the poll is to be taken in case the election is contested, which day shall not be earlier than 28 days from the date of the notice.

(2) The Electoral Officer shall, within 5 days of the publication of a notice under subsection (1), publish in an appropriate manner in each ward of the electoral district a notice stating:-

- (a) the date, place and time at which nomination papers are to be delivered to him; and
- (b) the date on which the registers of electors for the wards in that electoral district will be closed; and

- (c) the date on which the poll is to be taken in case the election is contested; and
- (d) the number of members to be elected.

Notice of election in elections for members of a council

18. Subject to any directions given by the Chief Electoral Officer, whenever an election of a member of a council becomes necessary the Electoral Officer for the electoral district in which the ward lies shall by notice—

- (a) appoint a convenient day or days for the holding of such election:

Provided that such day or the first of such days shall be not less than 35 days after the date of the publication of the notice as aforesaid; and

- (b) require the nominations in respect of persons submitting themselves for election to the Council to be delivered to the Electoral Officer not later than 4 p.m. on such day (being not later than 28 days before the date appointed for the election) as shall be specified; and state the date on which the register of electors will be closed.

Nomination of candidates

19. (1) Any person submitting himself for election shall be nominated by 3 electors in the electoral district or ward, as the case may be, for which he is a candidate, and no candidate may be nominated for more than 1 electoral district or ward, as the case may be.

(2) The nomination shall be in the form set out in Schedule 2 and the nomination paper shall contain the following particulars:-

- (a) the full name, and the address and description of the candidate; and
- (b) the full names, and the addresses and descriptions of the nominators of the candidate; and
- (c) a certification by the candidate that he is willing and qualified to stand for election, and shall be signed by the candidate.

(3) The Electoral Officer for the electoral district in which the election to be held shall:-

- (a) provide nomination papers; and

- (b) at the request of the candidate, complete a nomination paper on behalf of a candidate.

(4) In addition, the Chief Electoral Officer may provide nomination papers for an election of a member of the Maneaba ni Maungatabu.

(5) No elector shall nominate more than 1 candidate, and where any nomination paper contains the name of an elector whose name appears on another nomination form as nominator of another candidate only the first nomination paper delivered in accordance with this section shall, subject to the provisions of this Act, be valid and every other nomination paper containing the elector's name shall be null and void.

(6) Each candidate shall deliver his nomination paper signed as hereinbefore provided to the Electoral Officer not later than the time specified under section 17 (2) (a) or 18 (b), as the case may be:

Provided that in the case of elections for the Maneaba ni Maungatabu nomination papers may be delivered to the Chief Electoral Officer not later than the time specified under section 17 (2) (a).

Additional qualification for elected membership for the Maneaba ni Maungatabu.

20. Pursuant to section 55 (c) of the Constitution, a person shall not be qualified to be elected as an elected member of the Maneaba ni Maungatabu:-

- (a) if he or she has been convicted whether before or after the commencement of this Act with the following offences:-
 - i) felony cases with an imprisonment sentence of five years or more;
 - ii) fraud cases; or
 - iii) sexual offences;provided, the conviction shall not be more than seven years old;
- (b) he or she is a full time paid employee of any of three arms of government;
- (c) he or she is a member of a council established under the Local Government Act.

Validity of nomination

21. (1) When any nomination paper is delivered to the Chief Electoral Officer or an Electoral Officer in accordance with section 19 (6), the candidate shall be deemed to stand nominated unless and until the Chief Electoral Officer or the Electoral Officer, as the case may be, decides that the nomination paper is invalid or proof is given to the satisfaction of the Chief Electoral Officer or the Electoral Officer, as the case may be, of the death of the candidate or the candidate withdraws in accordance with section 23.

(2) The Chief Electoral Officer or an Electoral Officer shall not be entitled to hold the nomination paper invalid except on 1 or more of the following grounds:-

- (a) that it is not in the form in Schedule 2 or that such form has not been properly completed; or
- (b) that it is null and void by virtue of section 19 (5); or
- (c) that the paper is not signed as required by law; or
- (d) that he is not satisfied that 1 or more of the electors stated on the paper to be the candidate's nominators have consented to the nomination of the candidate; or
- (e) that the nominators of the candidate or any of them are not persons whose names appear on the registers of electors in respect of 1 of the wards of the appropriate electoral district or the register of electors in respect of the appropriate ward, as the case may be; or
- (f) that the candidate already stands nominated for another electoral district or ward, as the case may be; or
- (g) that the candidate is not qualified to be a member of the Maneaba ni Maungatabu or of the council for which he is proposing to stand.

List of candidates to be published

22. (1) In the case of an election of a member of the Maneaba ni Maungatabu, the Electoral Officer shall within 48 hours of the expiry of the time allowed for the delivery of nomination papers under section 17 (2) (a) cause to be published at such places within the electoral district as he considers expedient, including the place of which notice has been given under section 17 (2) (a), and in such manner as he may deem appropriate, a list containing the full names and addresses and descriptions of the candidates for that electoral district and the persons by whom they were nominated.

(2) In the case of an election of a member of a council, the Electoral Officer, not later than 21 days before the date fixed for the election, shall cause to be published within the ward, in such manner as he may deem appropriate, a list containing the full names, addresses and descriptions of the candidates for that ward and the persons by whom they were nominated.

Withdrawal of candidature

23. Any candidate may withdraw his candidature by notice in writing signed and delivered by him to the Electoral Officer not later than 4 p.m. on the day next before the day of election.

Unopposed candidates

24. Where, as a result of withdrawals in pursuance of section 23 or otherwise, there are the same number, or less than the number, of candidates as there are members to be elected in any electoral district or ward, as the case may be, the Electoral Officer shall, at the close of the nomination period or on the last of the withdrawals, as the case may be, declare the candidate or candidates to be duly elected and shall report the names of the persons so elected to the Electoral Commission, in the case of an election of a member of the Maneaba ni Maungatabu, or the Chief Electoral Officer, in the case of an election to a council.

Death of candidates

25. (1) Where, after the expiration of the time allowed for the delivery of nomination papers by section 17 (2) (a), but before the day of the poll, a candidate in an election of a member of the Maneaba ni Maungatabu dies, the Electoral Officer shall, upon being satisfied of the fact of death, countermand the election in respect of the electoral district for which the deceased was a candidate, and report his action to the Electoral Commission.

(2) Upon receipt of a report under subsection (1), the Electoral Commission shall in respect only of the electoral district so affected issue a notice of election in terms of section 17 (1) and the electoral procedure shall in respect of that electoral district be commenced *de novo*:

Provided that no new nomination shall be required in respect of a candidate who, at the time of the countermand of the election, had been properly nominated in accordance with section 19.

(3) Where, after the expiration of the time allowed for the delivery of nomination papers by section 18 (b) but before the day of the poll, a

candidate in an election of a member of a council dies, the Electoral Officer shall, upon being satisfied of the fact of death, countermand the election in respect of the ward for which the deceased was a candidate and shall appoint some other convenient day or days for the election and the election procedure shall commence de novo:

Provided that no new nomination shall be required in respect of a candidate, who, at the time of the countermand of the election, had been properly nominated in accordance with section 19.

Election procedure

26. (1) The poll at an election shall be taken and votes shall be cast and counted in accordance with regulations made hereunder.

(2) An elector shall not vote for more candidates than there are members to be elected nor record more than 1 vote in favour of any candidate at any 1 election.

PART V

ELECTION OFFENCES

Corrupt practices

27. (1) No election shall be valid if any corrupt or illegal practice is committed in connection therewith by the candidate elected.

(2) Where on an election petition it is shown that corrupt or illegal practices or illegal payments committed or made in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, the Court may declare his election, if he has been elected, to be void and he shall be incapable of being elected to fill the vacancy for which the election was held.

Penalty for false answer

28. Any person who falsely states to an officer appointed as a presiding officer for the purposes of regulations made hereunder that he is a person whose name appears in the register of electors or that he has not already voted at the election in question, knowing the statement to be false or not believing it to be true, shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months.

Offences in respect of nomination papers, etc.

29. (1) Any person who—

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to any person or authority to whom nomination papers are required by this Act to be delivered any nomination paper knowing the same to be forged; or
- (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper provided in accordance with regulations made hereunder; or
- (c) without due authority, supplies any ballot paper to any person; or
- (d) fraudulently takes out of any polling station any ballot paper; or
- (e) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of an election,

shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

(2) In any prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, counterfoils, and other things in use at an election, the property in such papers, boxes and things may be stated to be in the Electoral Officer at such election.

Infringement of secrecy

30. (1) The members of the Electoral Commission, the Chief Electoral Officer and every Electoral Officer, Assistant Electoral Officer, presiding officer, polling or other assistant appointed for the purposes of regulations made hereunder, candidate and agent shall maintain and aid in maintaining the secrecy of the voting in an election and shall not communicate, except for some purpose authorised by law, the election to any person any information as to the name or number on a register of electors of any elector who has or has not applied for a ballot paper or voted.

(2) No person shall interfere with or attempt to interfere with an elector when casting his vote, or otherwise attempt to obtain information as to the candidate for whom any elector is about to vote or has voted, or communicate at any time to any person information obtained during any election as to the candidate for whom any elector is about to vote, or has voted, or as to the number on the ballot paper given to any elector:

Provided always that this subsection shall not prohibit, limit or qualify any procedure prescribed by regulations made hereunder for recording the vote

of any elector who is unable to read or is incapacitated by blindness or other disability from casting his vote himself.

(3) A person to whom subsection (1) applies in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper.

(4) Any person who acts in contravention of this section shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months.

Penalty for bribery, treating and undue influence

31. Any person who is guilty of bribery, treating or undue influence shall be guilty of a corrupt practice and shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

Persons to be deemed guilty of bribery

32. The following persons shall be deemed to be guilty of bribery within the meaning of this Part—

- (a) every person before or during an election who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure any money or valuable consideration to or for any elector or to or for any person on behalf of any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election; and
- (b) every person before or during an election who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure or to endeavour to procure, any office, place or employment to or for any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election; and
- (c) every person before or during an election who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person, in order to induce such person to

procure, or to endeavour to procure, the return of any person or the vote of any elector at any election; and

- (d) every person, before or during an election who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures, or engages, promises or endeavours to procure, the return of any person or the vote of any elector at any election; and
- (e) every person before or during an election who advances or pays, or causes to be paid, any money to or for the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who knowingly pays, or causes to be paid, any money to any person, in discharge or repayment of any money wholly or in part expended in bribery at any election; and
- (f) every elector, who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees to receive, or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any election;
- (g) every person who, after any election, directly or indirectly by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election;

Provided that this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bona fide* incurred at or concerning any election.

Provided further that any person making a customary offering to a Maneaba, referred to an I-Kiribati as “mweaka”, “moanei” or “ririwete”, with the sole intention of showing for the customs and traditions of Kiribati, shall not be guilty of bribery.

Persons to be deemed guilty of treating

33. The following persons shall be deemed to be guilty of treating within the meaning of this Part—

- (a) every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives, provides or pays, or promises to give, provide or pay, wholly or in part, the expense of giving or providing any food, drink, entertainment, or provision to or for any person, for the

purposes of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of that person or any other person having voted or refrained from voting at such election; and

- (b) every elector who corruptly accepts or takes any such food, drink, entertainment, or provision.

“Bubuti or Katuua” not a defense

34. (1) Subject to the provisos in section 32 in relation to legal expenses, mweaka, moanei and ririwete the custom of bubuti or katuua shall not be a defence to any person charged with bribery or treating under section 32 and 33 of this Act.

(2) For the purposes of this section -

“bubuti” means a customary manner of asking someone for a favour whether in money or in kind which usually obliges the person asked to provide;

“katuua” means a customary method of fining a person with the payment of money or otherwise whether in a maneaba or at a function for an offence whether minor or serious against the rules of the maneaba or the function, which obliges the person fined to pay or provide.

Persons to be deemed guilty of undue influence

35. Every person who directly or indirectly, by himself or by any other person on his behalf, makes use, or threatens to make use, of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any injury, damage, harm or loss, upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting, at any election, or who, by abduction, duress or any fraudulent means, impedes or prevents the free use of the vote by any elector and thereby compels, induces or prevails upon any elector either to give or refrain from giving his vote at any election shall be guilty of undue influence within the meaning of this Part.

Penalty for personation

36. Every person who is guilty of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation, shall be guilty of a corrupt practice and liable on conviction to a fine of \$50 and to imprisonment for 3 months.

Persons to be deemed guilty of personation

37. Every person who at any election applies for a ballot paper in the name of another person or tenders a vote in the name of another person whether that name is the name of a person living or dead or of a fictitious person, or who, having voted once at any election, applies for a ballot paper or tenders a vote at the same election, in his own name, which he is not entitled to tender under regulations made hereunder, shall be guilty of personation within the meaning of this Part.

Incapacity entailed by conviction for corrupt practice

38. Every person who is convicted of a corrupt practice shall, in addition to any other punishment, be incapable, during a period of 5 years from the date of his conviction—

- (a) of being registered as an elector or of voting at any election; and
- (b) of being elected as a member of the Maneaba ni Maungatabu or a council, or, if elected before his conviction, of retaining his seat as such member.

Penalty for person guilty of certain illegal practices

39. Any person who—

- (a) votes, or induces, or procures any other person to vote, at any election knowing that he or such other person is prohibited or is disqualified by the Constitution, this Act or any other law for the time being in force from voting at such election; or
- (b) before or during an election knowingly publishes any false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate,
- (c) imposed traditional methods of fining a candidate (commonly known as “te katua”) at any gathering before and during the election”;
- (d) directly receives, uses or benefits from the proceeds of a traditional fine provided under paragraph (c);
- (e) is a candidate gives or offer any money or property in compliance with the traditional fine under paragraph (c);
- (f) is a candidate who authorized, knew or ought to know that the publication of a campaigning on his or her behalf over the radio during the polling day.

shall be guilty of an illegal practice and shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months, and shall be incapable, during a period of 3 years from the date of his conviction, of voting at any election.

Provided that if a person convicted under this section is also a candidate, his or her nomination or election result shall be null and void.

Interference with lawful public meeting to be an illegal practice

40. Any person who at a lawful public meeting, held in connection with any election between the date of publication of a notice issued under section 17 or 18 and the date on which the result of the election is published, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice and shall be liable on conviction to a fine of \$100 and to imprisonment for 3 months, and shall be incapable, during a period of 3 years from the date of his conviction, of voting at any election.

Display of emblems in vicinity of place of voting prohibited

41. (1) No person other than a candidate shall, within any building where voting in an election is in progress, or on any public way within a distance of 50 meters of any entrance to such building, wear or display any card, symbol, favour or other emblem indicating support for a particular candidate or political party, and no person shall within 200 meters of any such building make any public address indicating support for a particular candidate or political party.

(2) Any person acting in contravention of this section shall be liable on conviction to a fine of \$500.

(3) For the purpose of this section, "public way" includes any highway, market place, square, street, causeway or other way which is lawfully used by the public.

General Penalty

42. A person who commits an offense against any provisions of this Act or of the Regulations made pursuant to section 49 for which no other penalty is prescribed, shall be guilty of a misdemeanor and shall upon conviction be liable to a fine not exceeding \$200 or a term of imprisonment not exceeding 6 months, or both.

Saving of offences under Cap.67

43. Nothing in this Part shall be construed or deemed in any way to prejudice, derogate from or affect any of the provisions of the Penal Code as to offences relating to public offices or officers.

Questions as to elected members to be determined by Court

44. (1) All questions which may arise from any election as to the right of any person to be or remain an elected member of the Maneaba ni Maungatabu, or, as the case may be, of a council, shall be referred to and determined by the Court—

- (a) in the case of a question relating to the Maneaba on application in accordance with section 60 of the Constitution; and
- (b) in the case of a question relating to a council on application by the Attorney General or an elector, in accordance with the procedure prescribed by sections 45 and 46 for the presentation and hearing of an election petition, and the decision of the Court on any such petition shall be final and shall not be questioned in any other proceedings.

(2) Where the question to be decided concerns the right of any person to remain a member of the Maneaba ni Maungatabu or of a council, as the case may be, the Court shall certify its decision in writing to the Chief Electoral Officer, and where the Court has decided that any person is not entitled to remain a member such person shall thereupon cease to be a member.

Election petitions

45. (1) For the purposes of section 60 of the Constitution and of section 44, an election petition may, within 1 month after the date of publication of the result of the election, be presented to the Court—

- (a) in the case of an election of a member of the Maneaba ni Maungatabu in accordance with section 60 of the Constitution; and
- (b) in the case of an election of a member of a council by
 - (i) a person who had a right to vote at the election; or
 - (ii) a person who claims to have had a right to be returned or elected at the election; or
 - (iii) a person who claims that he was a candidate at the election.

(2). Where an election petition has been presented to court under this section, the petitioner is not required to pay security costs to the Court.

Hearing of election petition

46. (1) Every election petition shall be heard by the Court in open court.

(2) During such hearing the Court may order—

- (a) the opening of any sealed packet of counterfoils of used ballot papers; or
- (b) the inspection of any counted ballot papers; or
- (c) the inspection and production of tendered ballot papers and the tendered votes list; or
- (d) the inspection and production of any rejected ballot papers:

Provided that in making and carrying into effect the order care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved that his vote was given and the vote has been declared by the Court to be invalid.

(3) At the conclusion of the hearing, the Court shall determine whether the member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination to the Electoral Commission, in the case of a petition relating to the Maneaba ni Maungatabu, or to the Chief Electoral Officer, in the case of a petition relating to a council, and, upon such certificate being given, such determination shall be final and shall not be questioned in any proceedings; and the election shall be confirmed, or a new election shall be held, as the case may require, in accordance with such certificate:

Provided that where the Court finds that any candidate who has been declared to be elected was not qualified or was disqualified at the time of his election, the Court shall determine the election to be void.

(4) The Court shall, as far as practicable, dispose of an election petition presented under section 45 within 3 months of presenting that petition.

Procedure at hearing of election petition

47. Subject to this Act, and without prejudice to any power to make rules under the Constitution, the Chief Justice may from time to time make rules for regulating the practice and procedure to be observed in relation to election petitions, and subject to such rules the procedure at the hearing of an election petition shall, as near as circumstances will admit, be the same, and the Court shall have the same powers, jurisdiction, and authority, as if the Court were hearing a civil action; and witnesses may be subpoenaed and sworn in the same manner, as near as circumstances will admit, as in the

hearing of a civil action in the Court, and shall be subject to the same penalties for perjury.

PART VI

MISCELLANEOUS

Power to defer part of an election

48. (1) Notwithstanding anything to the contrary contained in this Act, where the Electoral Commission, in the case of an election to the Maneaba ni Maungatabu, or the Chief Electoral Officer, in the case of an election to a council, is satisfied that by reason of storm or any other cause whatsoever, whether of the like nature or otherwise, it has not been or will not be possible to carry out any part of any election or to comply with any of the provisions of this Act or of the regulations made hereunder relating to time, throughout the electoral district concerned or ward as the case may be, it or he may, within 14 days of the date originally appointed for that part, by notice appoint or direct the Electoral Officer to appoint a new date for such part and for any subsequent part of the election as may be necessary.

(2) Every date appointed under subsection (1) shall be deemed to have been appointed under the appropriate provisions of Part IV or the regulations made hereunder, as the case may be, and shall afford all persons not less notice than is provided for in those provisions.

(3) In exercising its or his power under subsection (1), the Electoral Commission or the Chief Electoral Officer, as the case may be, may give such directions as it or he may consider necessary as to the deferment or suspension of the counting of votes pending receipt of the ballot boxes, papers and lists relating to any part of any election for which a new date is appointed, and for the safe custody of all ballot boxes, papers and lists already received.

(4) In subsection (1), "part", in relation to an election, includes any stage of an election and any act, matter or thing required to be done by any provision of this Act or of regulations made hereunder.

Regulations

49. Subject, in the case of regulations relating to elections of members of the Maneaba ni Maungatabu, to Part I of Chapter V, and to sections 118 and 131 (1), of the Constitution, the Minister, in consultation with the Electoral Commission and acting in accordance with the advice of the Cabinet, may make regulations for the election of members of the Maneaba ni Maungatabu and of councils including, without prejudice to the generality of the foregoing, regulations making provision in relation to:-

- (a) the registration of electors and the revision of registers of electors; and
- (b) the holding of elections and the method of voting and of counting of votes;
- (c) determining how the result of an election shall be ascertained and the circumstances in which a further election shall be held;
- (d) the registration of political parties for the purpose of this Act;
- (e) prescribed the amount of financial support and incidentals thereto to be used for election campaign by a candidate or a registered party.

Transitional provisions

50. (1) The Election Ordinance (CAP. 29B) is hereby repealed.

(2) Any notice in force and regulations made under the Election Ordinance (CAP 29B) before the coming into force of this Act shall continue to have force as if they are made under this Act unless specifically repealed.

SCHEDULE 1

(Section 9)

Electoral District	Area	No of Members
1. Makin	The island of Makin	2
2. Butaritari	The island of Butaritari	2
3. Marakei	The island of Marakei	2
4. Abaiang	The island of Abaiang	3
5. Betio	The islet of Betio	3
6. Tarawa Teinainano	The area of authority of Teinainano Urban Council together with the islet of Tanaea	3
7. Rural Tarawa	The part of Tarawa Atoll not included in the Electoral Districts of Betio and Tarawa Teinainano	3
8. Banaba	Banaba	1
9. Maiana	The island of Maiana	2
10. Abemama	The island of Abemama	2
11. Aranuka	The island of Aranuka	1
12. Kuria	The island of Kuria	1
13. Nonouti	The island of Nonouti	2
14. North Tabiteuea	The part of Tabiteuea Atoll extending from the northern most point to and including the islet of Nauketai.	2
15. South Tabiteuea	The part of Tabiteuea Atoll not included in the North Tabiteuea electoral District	1
16. Onotoa	The island of Onotoa	2
17. Beru	The island of Beru	2
18. Nikunau	The island of Nikunau	2

19. Tamana	The island of Tamana	1
20. Arorae	The island of Arorae	1
21. Washington	Washington Island	1
22. Fanning	Fanning island	2
23. Kiritimati	Kiritimati	3

Schedule 2

(Section 19)

NOMINATION PAPER.

Electoral District/Ward for which the candidate seeks election

Date of Election

1. I, the undersigned, am the candidate to whom this nomination paper refers, and I hereby state that I am willing to stand for election to the Maneaba ni Maungatabu/ Council as a member for the Electoral District/ as a member for the ward.
2. I also hereby state that I am qualified, and not disqualified, for election to the Maneaba ni Maungatabu/ council in accordance with law now in force.

A) Full Name:.....

Address:

Description or Occupation:

B) Full Name:

Address:

Description or Occupation:

C) Full Name:

Address:

Description or Occupation:

Signature of Candidate

Date.....

Regulations under Section 38

ELECTIONS ACT 2019
EXPLANATORY MEMORANDUM

The Act seeks to repeal the Election Ordinance (CAP 28B).

Part I Preliminaries

Section 1, 2 and 3 deals with the short title, the application and commencement of the Act, and the interpretation provisions.

Part II Electoral Commission and the electoral Officers.

Section 4 deals with the duties of the Electoral Commission, while section 5 deals with the independence of the Electoral Commission. Section 6 provides for the funding of the Electoral Commission while section 7 provides protection of the Commission and its officers from civil suit. Section 8 deals with the appointment of the Electoral Officers.

Part III Electoral District, Wards and Registrations.

Section 9 provides for the Electoral districts and return of elected representatives to the Maneaba ni Maungatabu. Section 10 deal with the division of electoral districts into wards. Section 11 provides for the number of Councils to represent each ward.

Section 12, provides for the qualifications for registration and voting. Section 13 provides for the qualification for automatic registration of electors, while section 14 deals with the automatic registration of eligible electors and allows the Chief Electoral Officer and the Registrar General to work closely. Section 15 deals with the register of electors for each ward, while section 16 deals with the transfer of registration.

Part IV Elections.

Section 17 deals with the notice of election in elections for the Maneaba ni Maungatabu. Section 18 deals with the notice of election in elections for members of a council.

Section 19 deals with the nomination of candidates. Section 20 deals with the Additional qualification for elected membership for the Maneaba ni Maungatabu. Section 21 deals with the validity of nomination. Section 22 provides that the list of candidates to be published. Section 23 deals with the withdrawal of candidature, while section 24 deals with the unopposed candidates. Section 25 deals with the death of candidates and section 26 deals with the election procedure.

Part V Election Offences.

Section 27 deals with corrupt practices, while section 28 deals with providing false answers. Section 29 deals with offences in respect of nomination papers. Section 30 deals with infringement of secrecy. Section 31 deals with penalty for bribery, treating and undue influence, while section 32 deals with persons to be deemed guilty of bribery. Section 33 deals persons to be deemed guilty of treating, section 34 provides that te bubuti and katuuu are not defences against bribery or treating. Section 35 deals with the persons to be deemed guilty of undue influence, section 36 provides for penalty for personation and section 37 deals with the persons to be deemed guilty of personation.

Section 38 deals with incapacity entailed by conviction for corrupt practice, section 39 deals with penalty for person guilty of certain illegal practices, and section 40 deals with interference with lawful public meeting to be an illegal practice. Section 41 provides that the display of emblems in vicinity of place of voting is prohibited. Section 42 deals with general penalty while section 43 deals with the saving of offences under Cap.67. Section 44 deals with questions as to elected members to be determined by Court. Section 45 deals with the election petitions, section 46 deals with the hearing of election petition and section 47 deals with the procedure at hearing of election petition.

Part VI Miscellaneous.

Section 48 provides for the power to defer part of an election. Section 49 is the regulatory making powers and section 50 deals with the transitional provisions.

Hon Natan Teewe
Minister for Justice

**CERTIFICATE OF THE CLERK OF THE MANEABA NI
MAUNGATABU**

This printed impression of the Election Act 2019 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 2nd September 2019 and is found by me to be a true and correctly printed copy of the said Bill.

.....
Eni Tekanene
Clerk of the Maneaba ni Maungatabu

CERTIFICATE OF THE SPEAKER OF THE MANEABA NI MAUNGATABU

I certify that the above Act was on the 2nd September 2019 passed by the Maneaba ni Maungatabu on a Certificate of Urgency under section 68(3)(a) of the Constitution.

.....
Hon. Tebuai Uaai
Speaker of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this day
of 2019.

.....
Eni Tekanene
Clerk of the Maneaba ni Maungatabu