

REPUBLIC OF KIRIBATI
(No. 3 of 1981)

I assent,

H. T. T. T.
Beretitenti.
26 May, 1981.

ACT TO REGULATE THE BUSINESS OF INSURANCE,
TO ESTABLISH THE KIRIBATI INSURANCE CORPORATION
AND FOR PURPOSES INCIDENTAL THERETO

Commencement: ^{1 June} ~~1 May~~, 1981.

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 Insurance Act, 1981, and shall come into force on a date to be notified by the Minister in the Gazette.

Interpretation.

2. In this Act, unless the context otherwise requires -

"actuary" means -

- (a) a fellow of the Institute of Actuaries of England or of the Faculty of Actuaries of Scotland; or
- (b) such other person having actuarial knowledge as the Minister may, on the application of the Corporation, approve;

"agent" means a person who acts as an intermediary between an insurer and a proposer or an insured for or in expectation of payment by way of commission, allowance, return or other remuneration for channelling, soliciting or procuring insurance business;

"appointed date" means the date notified by the Minister under section 1 for the coming into force of this Act;

"Board" means the Board appointed under section 5;

"broker" means a person who exercises professional skill and is concerned with the placing of insurance business for or in expectation of payment by way of commission, fee, allowance, return or otherwise;

"Corporation" means the Corporation established under section 4(1);

"employers' liability insurance business" means the business of or the undertaking of liability under policies insuring employers against liability to pay compensation or damages to workmen in their employment.

"fire insurance business" means the business of effecting, otherwise than incidentally to some other class of insurance business, contracts of insurance against loss by or incidental to fire or other occurrence customarily included among the risks insured against in policies of fire insurance;

"general insurance business" means fire, marine, motor vehicle or miscellaneous insurance business whether carried on singly or in combination with one or more of them;

"insurance business" means -

- (a) the business of undertaking liability by way of insurance (including reinsurance) in respect of lives, or any loss or damage, including liability to pay damages or compensation contingent upon the happening of a specified event;
- (b) business relating to the continuance, renewal or revival of the business referred to in sub-paragraph (a), and includes business incidental thereto;

"insurer" means any person who commences, transacts or carries on insurance business;

"Kiribati business" means insurance business commenced, transacted or carried on by an insurer in respect of human life, property or interest in Kiribati and includes insurance business in respect of any vessel or aircraft ordinarily located in Kiribati;

"life insurance business" means the undertaking of liability under policies of insurance upon human life or the granting of annuities upon human life;

"marine insurance business" means the business of effecting and carrying out, otherwise than incidentally to some other class of insurance business, contracts of insurance -

- (a) upon vessels or machinery, tackle or furniture or equipment on, in or upon vessels;
- (b) upon goods, merchandise or property of any description whatever on board vessels;
- (c) upon the freight of or any other interest in or relating to vessels;
- (d) against damage arising out of or in connection with the use of vessels including third party risks;
- (e) against transit risks (whether the transit is by sea, inland water, land, air or partly by one and partly by another) including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance but not including risks the insurance of which is motor vehicle insurance business; or

- (f) against any of the risks the insurance of which is customarily undertaken in conjunction with or incidental to any such business as is referred to in the foregoing paragraphs of this definition;

"miscellaneous insurance business" means any insurance business other than business which is principally or wholly employers' liability insurance business, fire insurance business, life insurance business, marine insurance business and motor vehicle insurance business;

"motor vehicle insurance business" means the business of effecting contracts of insurance against loss of or damage to or arising out of or in connection with the use of motor vehicles including third party risks;

"Minister" means the Minister responsible for Finance;

"policy" -

- (a) in relation to ordinary life insurance business or industrial life insurance business, includes an instrument evidencing a contract to pay an annuity upon human life; and
- (b) in relation to other classes of business, includes any instrument under which there is for the time being an existing liability already accrued or under which any liability may accrue.

PART II
AUTHORISED INSURER

Only Kiribati
Insurance
Corporation to
carry on
insurance
business.

3(1) Save as otherwise provided under this Act, only the Corporation shall on or after the appointed date directly or indirectly undertake liability by way of insurance in respect of lives or any loss or damage including liability to pay damages or compensation contingent upon the happening of a specified event

- (a) in Kiribati, whether in respect of Kiribati business or otherwise, or
- (b) outside Kiribati, in respect of Kiribati business,

and any person who acts in contravention of this subsection shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars and if the offence is a continuing one, to a further fine of five hundred dollars for every day after the first during which the offence has continued.

(2) Any person who directly or indirectly transacts Kiribati business with or through any insurer, agent or broker in Kiribati or abroad other than the Kiribati Insurance Corporation shall be liable on conviction to a fine not exceeding one thousand dollars.

(3) The provisions of subsections (1) and (2) shall not apply to reinsurance business.

(4) The provisions of subsections (1) and (2) shall apply to new business as well as business which constitutes a renewal or revival of insurance business provided that the continued payment of a premium in respect of any policy relating to life insurance business shall not constitute a renewal of that policy for the purposes of this section.

(5) Nothing in this section shall be deemed to prohibit or otherwise render unlawful the continuance of insurance business in Kiribati by an insurer in so far, but only in so far, as it is necessary to maintain without renewal or revival such policy or contract of insurance.

(6) For the avoidance of doubts it is hereby declared that obligations and liabilities of insurers, agents and brokers in respect of or arising out of policies of insurance issued prior to the appointed date shall be as binding, effectual and valid as if this Act had not been enacted.

PART III

ESTABLISHMENT OF KIRIBATI INSURANCE CORPORATION

~~Establishment and incorporation of Kiribati Insurance Corporation.~~ 4(1) There is hereby established a Corporation called the Kiribati Insurance Corporation.

(2) The Corporation shall be a body corporate having perpetual succession, a common seal and the right to hold and dispose of real and personal property and to sue and be sued, and to do and suffer all acts and things that bodies corporate may do and suffer.

The Board. 5(1) The Corporation shall be governed by a Board consisting of five members who shall be appointed by the Minister.

(2) A member of the Board who is in any way directly or indirectly financially interested in a contract made or proposed to be made by the Corporation shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of the interest to the Corporation and such member shall not take part in any deliberation or discussion by the Corporation with respect to that contract.

Chairman. 6. The Chairman of the Board shall be appointed by the Minister.

Term of office. 7. The term of office of a Board Member shall be three years.

Reappointment. 8. A member of the Board shall be eligible for reappointment.

Resignation. 9. A member of the Board may resign his office by notice in writing to the Minister.

Replacement of directors. 10. The Minister may appoint another person in place of a member of the Board who dies or resigns for the remainder of the period of the member who ceased to hold office.

Board meetings. 11. Board meetings shall be held at least once in every eight weeks at such times and places as determined by the Board or within one week at the requisition of three members of the Board.

- Directors' request for meetings. 12. The Chairman shall call a meeting whenever required to do so in writing by three members.
- Quorum. 13. Three members shall be a quorum.
- Presiding officer. 14. The Chairman shall preside at meetings. In his absence the members shall elect a Chairman from those present.
- Decisions by majority. 15. All questions shall be decided by a majority of votes recorded on the question.
- Procedure. 16. The Board may regulate its procedures in such manner as it deems fit.
- Duty to report to Minister. 17. Within four months after the end of every financial year or at the end of such other period of time the Minister may at the request of the Board allow, the Board shall send the Minister a report of its proceedings and operations for that year together with a copy of the audited accounts and report of the auditor and the latest report from an actuary in terms of section 32.
- Duty to report to the Maneaba ni Maungatabu. 18. A copy of the Report of the Board and Reports of the auditor and actuary shall be laid before the Maneaba ni Maungatabu within 60 days of its receipt by the Minister.
- Minister's directions. 19. The Minister may give general and special directions in writing to the Board as to the performance of the duties and the exercise of the powers of the Board in relation to matters which appear to him to affect the national interest or which are necessary to ensure the financial stability of the Corporation and its efficiency.
- Remuneration. 20. Members of the Board shall receive such remuneration as may be determined by the Minister and expenses reasonably incurred by them in respect of their attendance at meetings of the Board shall be reimbursed.
- Delegation. 21. The Board may in writing either generally or particularly delegate to a member of the Board or any of its officers or employees any of its powers and functions.
- Delegation revocable. 22. Delegations by the Board shall be revocable at will and shall not prevent the exercise of a power by the Board.
- Delegation valid till revoked. 23. Until any delegation is revoked, it shall continue in force according to its tenor notwithstanding any change in the membership of the Board or in the holder of any office.
- General powers and functions. 24. The Board shall have such powers in relation to the administration of the Act as are conferred upon it by this Act and shall have such further powers, not inconsistent with this Act as are reasonably necessary for the performance of its functions.
- Specific powers and functions. 25. It shall be the general duty of the Corporation to transact and carry on life insurance business, general insurance business, reinsurance business, risk management business and business related or incidental thereto whether in or outside Kiribati and the Corporation shall so exercise its powers under this Act so as to secure that insurance business, reinsurance business and risk

management business are developed to the best advantage of the community and economy of Kiribati.

Staff.

26(1) For the purpose of enabling it to discharge its functions under this Act the Corporation may entrust the general superintendence and administration of its affairs to a management concern.

(2) The Corporation shall establish such other posts as it considers necessary and proper for the due and efficient administration, management and performance by the Corporation of its duties under this Act and shall, acting on the recommendation of the Public Service Commission, appoint staff to fill those posts.

(3) The termination of appointment, dismissal and disciplinary control of the staff of the Corporation shall be vested in the Corporation, acting on the recommendation of the Public Service Commission.

PART IV
FINANCE, ACCOUNTS AND AUDIT

Funds of the Corporation.

27. The Corporation shall have its own fund and all receipts ~~of the Corporation shall be credited thereto and all payments of~~ the Corporation shall be made therefrom.

Investment of funds.

28. The funds, including reserves, of the Corporation shall be invested in such investments as may be prescribed from time to time by the Minister of Finance who shall act in consultation with the Board.

Separate accounts.

29. The Corporation shall keep separate accounts of all receipts and payments in respect of the following classes of insurance business:

- (i) employers liability
- (ii) fire
- (iii) life
- (iv) marine
- (v) miscellaneous
- (vi) motor

Accounts and balance sheets.

30. The Corporation shall at the expiration of each calendar year prepare with reference to that year

- (a) a balance sheet
- (b) a profit and loss account and a profit and loss appropriation account, and
- (c) in respect of each class of business referred to in section 29 a revenue account.

Audit.

31(1) The accounts of the Corporation shall be audited by the Director of Audit.

(2) As soon as may be after the end of every financial year, the Corporation shall prepare a general report of its proceedings during the year, and transmit it to the Minister who shall consider it and lay copies of it before the Maneaba ni Maungatabu.

(3) The said report shall have attached to it the accounts for the year prepared in accordance with section 30 and a copy of any report made by the Director of Audit on the accounts, and shall also include such information relating to the plans, and past and present activities, of the Corporation, and the financial position of the Corporation, as the Minister may from time to time direct.

(4) The Corporation shall at all reasonable times upon demand made by the Minister or by any person authorised by him in that behalf -

- (a) afford to him full liberty to examine the accounts of the Corporation; and
- (b) furnish him with all forecasts, estimates, information and documents which he may require with respect to the financial transactions and engagements of the Corporation.

Actuarial valuation.

32. The Corporation shall, once at least in every three years, cause an investigation to be made by an actuary into the financial condition of the life insurance business of the Corporation including a valuation of the liabilities of the Corporation in respect thereto and submit the report of the actuary to the Minister.

Government guarantee of loans and obligations.

33(1) The Corporation may borrow, by way of overdraft or temporary loan up to such limit as the Minister may specify in writing any sum which the Corporation may require temporarily for the purpose of meeting its commitments and obligations.

(2) The repayment of any loan raised or money borrowed under this section or any interest thereon may be secured by mortgage, or other charge upon the assets of the Corporation.

(3) If the Corporation is at any time unable to pay any sum which it is legally obliged to pay, the sum shall be advanced to the Corporation by the Government and the Board shall as soon as practicable repay to the Government the sum advanced by the Government to the Corporation with such interest as may have been prescribed by the Minister at the time of the advance.

Exemption from income tax, customs duties and import levy.

34. Notwithstanding the provisions of any other Act, the income of the Corporation shall be exempt from payment of income tax, and the Corporation shall not be liable for the payment of customs duty and import levy, or any other tax having a similar effect.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 19 May, 1981, and it 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 19 May, 1981, passed by the Maneaba ni Maungatabu on a certificate of urgency under section 68(3)(a) of the Constitution.

R. V. ...

.....
Speaker.

Published by exhibition -

- (a) at the Public Office of the Beretitenti on 26 May, 1981.

M. Esterubea
.....
Secretary to the Cabinet.

- (b) at the Maneaba ni Maungatabu on 26 May, 1981.

Amira
.....
Clerk to the Maneaba ni
Maungatabu.

INSURANCE BILL, 1981

EXPLANATORY MEMORANDUM

Most insurance in Kiribati is at present provided by an overseas insurance Company through the agency of the Co-operative Federation.

Apart from the commission paid to the Co-operative Federation, the significant profits from this insurance business are remitted overseas without any being invested in Kiribati. Premium income from this business has heavily outweighed claims paid out.

Adequate insurance and risk management services are essential if Government, Statutory Corporations, and private sector objectives are to be achieved. The use of scientific risk management techniques ensures the survival of organisations by conserving human, financial and material resources by preventing and minimizing losses. It also enables growth and development.

The transfer of risks by insurance enables Government, Statutory Corporations, and the private sector to plan with certainty. In the absence of insurance a large loss would destabilize programmes because funds would have to be diverted from other projects to meet these losses.

It is believed that Kiribati has not been adequately served by the present insurance arrangements and that the insurance business and risk management services could be better provided by a statutory corporation. By International standards, the insurance market in Kiribati is too small for competition and the viability of the Corporation would be at stake if this market was fragmented. For this reason the Corporation is given exclusive rights to carry on insurance business after the operative date of the Act.

The Corporation will need sound management. It is intended that one of the largest insurance broking Companies in the world will be appointed to manage the Corporation in its early years and provide local and overseas training for local staff.

The Corporation will not itself shoulder all the risks it insures, but will re-insure major risks with underwriters overseas. Progressively, as financial reserves increase, the Corporation will be able to retain more and more.

Section 1 provides that the Act will become operative on a date to be notified by the Minister. That date has not been firmly decided, but will give the management company ample time to make ready for the opening of business and give the existing company ample warning that their activities with regard to new business must cease.

Section 2 is the interpretation section.

Section 3 provides that only the Kiribati Insurance Corporation may conduct insurance business. Subsection (4) provides an important saving with regard to the continuation of life insurance policies. It would not be proper to suddenly bring such policies to an end, since the insured persons health may have deteriorated since taking out the policy, thus making a new policy more difficult or impossible to obtain, and financial loss would result from seeking re-payment of premiums paid to date. By subsection (6), existing liabilities of insurers are maintained.

Part III establishes the Corporation on the same basis as our other statutory bodies. Section 26 deals with staff and allocates to the Public Service Commission the normal functions with regard to the staff of the statutory corporations.

Part IV deals with the finances and audit of the Corporation.

Section 33 deals with the Corporations borrowing powers and imposes upon the Government the obligation to advance to the Corporation any sums which the Corporation is liable to pay over and above its own available funds.

Michael Jennings
Attorney General

LEGAL REPORT

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

Michael Jennings
Attorney General
21 May, 1981.