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NATIONAL IDENTITY REGISTRATION BILL 2018

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REPUBLIC OF KIRIBATI

(No. 13. 2018)

I assent,



Beretitenti

24/12/ 2018

An Act

entitled

An Act to provide for the compilation and maintenance of a population register in respect of the population of the Republic; for the issue of personal identity cards and certain certificates to persons whose particulars are included in the population register; and for matters concerned therewith.

Commencement:

2018

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 National Identity Registration Act.

Interpretation

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

"abode of residence" means the place where he or she normally lives and to which he or she returns regularly after any period of temporary absence. It includes but not limited to village and ward within the area of authority of an island council;

"certificate" means a birth, death or marriage certificate referred to in section 14;

"document" includes e-copies, hard copies, film and other means that makes the document accessible;

"finger prints" includes palm prints;

"personal identity card" means the personal identity card referred to in section 15;

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

"population register" means the population register referred to in section 6;

"Registrar General" means the Registrar General appointed under the Birth, Death and Marriages Ordinance Cap.5;

"surname" includes family name or father's name or any other name that a person commonly use as second name other than given name for identification.

Utilising of information for purposes of Act

3. The information contained in the Register under the Birth, Death & Marriages Ordinance which existed immediately prior to the commencement of this Act, as well as the information contained in any document kept by the Registrar General under any law, which are appropriate for the compilation and maintenance of the population register referred to in section 6(1), shall be utilised by the Registrar General for that purpose.

Application of Act

4. This Act shall apply to all persons who are Kiribati citizens, and persons who are lawfully and permanently resident in the Kiribati but not to foreigners working in foreign missions.

Assignment of identity numbers

8. (1) The Registrar General shall assign an identity number to every person whose particulars are included in the population register in terms of section 9.

(2) An identity number shall be compiled in a manner out of figures and shall, in addition to a serial, index and control number, consist of a reproduction, in figure codes, of the following particulars, and no other particulars whatsoever, of the person to whom it has been assigned, namely -

- a). date of birth and gender;
- b). whether or not he or she is a Kiribati citizen;
- c). whether or not he is she is a Kiribati descent;
- d). resident permit including Visa number in the case of foreigners;
- e). abode of resident.

Particulars to be included in population register

9. There shall in respect of any person referred to in section 4, be included in the population register the following relevant particulars available to the Registrar General, namely -

- a). his or her identity number referred to in section 8;
- b). his or her surname, full forenames, gender, date of birth and the place or country where he or she was born;
- c). if he or she has attained the age of 18 years, his or her abode of residence, electoral ward and island and his or her postal address;
- d). if he or she is a Kiribati citizen but is not a citizen by birth or descent, the date of his or her naturalization, adoption or registration as such a citizen, and, if he or she is an alien but has received a resident permit and was not born in the Republic, the date of his or her entry into the Republic, and the country of which he or she is a citizen;

e). the particulars of his or her marriage contained in the relevant marriage register or other documents relating to the contracting of his or her marriage, and such other particulars concerning his or her marital status as may be furnished to the Registrar General;

f). a recent photograph of himself or herself, if he or she has attained the age of 18 years old;

g). his or her fingerprints, if he or she has attained the age of 18 years;

h). particulars concerning passports and travel documents granted to him or her;

i). after his or her death, the required particulars furnished when notice of his or her death was given, and on permanent departure from the Republic, the date of such departure, and particulars concerning the cancellation in the prescribed manner of his or her personal identity card or that card with the exception of the prescribed section thereof (if any);

and any other particulars determined by the Minister by notice as particulars which, subject to the conditions, exceptions or exemptions (if any) mentioned in the notice, shall be included in the register.

Photographs

10. Every person referred to in section 4 who has attained the age of 18 years shall at his or her own expense furnish two prescribed copies of a recent photograph of himself or herself to the Registrar General when -

a). he or she applies for an personal identity card in terms of section 16; or

b). his or her personal identity card is required to be replaced by an improved one; or

c). if replacing a lost or damaged identification card.

Fingerprints

11. Every person referred to in section 4 who has attained the age of 18 years shall, when he or she applies for a personal identity card, have his or her fingerprints taken so that it may be included in the population register.

Change of abode of residence

12.(1) Every person whose name is included in the population register shall, if he or she attained the age of 18 years and a personal identity card has thereafter been issued to him or her, after any permanent change of his or her abode of residence or his or her postal address, notify the Registrar General within 30 days.

(2) If the Registrar General on the ground of information at his or her disposal, is of the opinion that a permanent change has occurred in respect of the abode of residence or the postal address of any person whose name is included in the population register, he or she may record the change in the population register, in consultation with the person concerned, and shall thereupon notify the person concerned that the change has been recorded.

Verification of particulars

13.The Registrar General may -

- a). request any person to furnish the Registrar General with proof of the correctness of any particulars which have been furnished in respect of such person in any document in terms of this Act; and
- b). investigate or cause to be investigated any matter in respect of which particulars are required to be recorded in the population register.

Certificates of certain particulars included in population register

14.(1) Without prejudice to the provisions of the Birth, Death and Marriage Ordinance (Cap.5), the Registrar General shall as soon as practicable after the receipt by him or her of an application, issue a birth, marriage or death certificate in the prescribed form after the particulars of such birth, marriage or death were included in the register in terms of section 9 of this Act.

(2) Any certificate issued in terms of subsection (1), shall in all courts of law be *prima facie* evidence of the particulars set forth therein.

Part III

Personal identity card

Personal identity card

15. A personal identity card may contain only the following relevant particulars in respect of the person to whom it is issued, namely -

- a). the particulars referred to in section 9(a), (b), and (c);
- b). any other particulars in the population register determined by the Minister by notice as particulars which, subject to the conditions, exceptions or exemptions (if any) mentioned in the notice, may be included in personal identity cards.

Application for personal identity card

16.(1) Any person referred to in section 4 who has attained the age of 18 years shall in the prescribed form and with payment of a prescribed fees apply to the Registrar General for a personal identity card.

(2) Two copies of the photograph referred to in section 10; and the fingerprints referred to in section 11, shall accompany the application made under this section.

Expiration date

17. An Identification Card issued under the provision of this Act shall be valid for 3 years.

Renewal

18. An expired card shall be renewed in a prescribed manner, with the payment of a prescribed fee.

Proof of Identity

19.(1) An authorised officer as defined in subsection (4) may at any time request any person reasonably presumed to have attained the age of 18 years to prove his or her identity to that officer by the production of his or her personal identity card as defined in subsection (5).

(2) If it comes to the attention of an officer acting in the service of the Ministry that a person referred to in section 4 who has attained the age of 18 years has not complied with the provisions of section 16(1), the authorized officer shall issue a compliance notice to the person to ensure that that person applies without delay for an personal identity card in terms of this Act.

(3) Failure to comply with the notice is an offence with a fixed civil fine of \$50.00 and \$2.00 for each day a penalty was not paid.

(4) For the purpose of this section "authorised officer" means -

- a). an agent of the Ministry authorized in writing by the Minister;
- b). Police Officer, Correctional Officer, Immigration and Customs Officer;
- c). a person, or a member of a category of person, designated by the Minister by notice and who for this section shall be deemed to be such a peace officer.

(5) For the purposes of subsection (1) "personal identity card" includes any other proof of identity issued by the Republic and on which the name and a photograph of the holder appears.

(6) The personal identity card shall be prima facie evidence of the age and abode of the named and pictured person therein.

Proof of residency

20. Pursuant to section 19 of the Constitution the personal identity card issued under this part is *prima facie* proof of having the right to enter and reside in Kiribati.

Part IV

Offences and Penalties

Offences and penalties

21. No person shall -

- a). for the purpose of this Act make or cause to be made a false statement;

b). record any particulars in the population register, unless authorised thereto in terms of section 7;

c). record any particulars in the population register which are in a material respect false, or fraudulently change any particulars therein;

d). having come into possession of an personal identity card, a certificate or a temporary identity certificate belonging to another person, present it as his or her own or belonging to any person other than the person to whom it belongs;

e). imitate, alter, deface, destroy or mutilate any personal identity card or any part thereof, certificate or temporary identity certificate, or cause it to be done or allow it to be done;

f). allow an personal identity card, a certificate or a temporary identity certificate belonging to him or her or which is under his or her control, to come into the possession of any other person for an unlawful purpose;

g). give out that any incorrect particulars in an personal identity card, a certificate or a temporary identity certificate are correct;

(h). at any time after a new personal identity card was issued to him or her, regain possession of an personal identity card previously issued to him or her under this Act and without lawful cause refuses to return for cancellation that previous personal identity card to the Registrar General within 14 days after a written request to return such personal identity card was served upon him or her, or after he or she regained possession of the previous personal identity card, as the case may be; or

(i). possess any personal identity card or any part thereof, a certificate or temporary identity certificate which has been imitated, altered, defaced or mutilated or any particulars of which are incorrect.;

(j). with intent issue a personal identity card to any person who is not entitle to receive it under this Act or any other laws.

(2) Any person who -

a.) contravenes a provision of subsection (1);

b). without lawful cause fails or refuses to comply with a request made under section 13(a);

c). without lawful cause refuses to comply with a provision of section 11 or section 16(1); or

d). contravenes a provision of section 23(1),

shall be guilty of an offence and liable on conviction to a fine not less than \$500.00 but not more than \$2000 or to imprisonment for a period not exceeding two years or both.

(3) A court convicting any person of an offence referred to in subsection (2) shall, if applicable -

a). declare the document or certificate in respect of which the offence was committed to be forfeited to the State; and

b). declare any instrument used for the purpose of or in connection with the commission of the offence, or the convicted person's rights thereto, to be forfeited to the Republic,

Provided that such declaration shall not affect any rights which any person other than the convicted person may have to such instrument, if it is proved that such person did not know that it was being used or would be used for the purpose of or in connection with the commission of such offence, or that he or she could not prevent such use.

Part V

Miscellaneous

Correction, cancellation and replacement

22.(1) If -

a). an personal identity card does not reflect correctly the particulars of the person to whom it was issued; or

b). a temporary identity certificate or any certificate does not reflect correctly the particulars of the person to whom it was issued, the person concerned or the guardian of the person to whom the

card or certificate was issued, as the case may be, shall within the 30 days hand over or send by registered post the personal identity card, temporary identity certificate or certificate, as the case may be, to the Registrar General.

(2) If the personal identity card, temporary identity certificate or certificate referred to in subsection (1) is not handed over or sent in accordance with that subsection, the Registrar General may obtain restoration thereof or seize it.

(3) If by virtue of this section the Registrar General has obtained possession of -

a). an personal identity card, he or she shall, without delay cancel it and, subject to section 10 and 11, replace it with a corrected personal identity card;

b). a temporary identity certificate or any certificate, he or she shall without delay -

(i) effect the necessary corrections directly on the temporary identity certificate or certificate, as the case may be, if in his or her opinion it can be done; or

(ii) in the prescribed manner cancel and replace it with a corrected temporary identity certificate or appropriate certificate, as the case may be.

(4) When it comes to the attention of the Registrar General that an personal identity card has been issued to a person whose name is not required in terms of section 4 to be included in the population register, the Registrar General shall request that person to return the personal identity card for cancellation.

Surrender or seizure of personal identity card of deceased person

23.(1). Any person who has in his or her possession a document being or purporting to be an valid personal identity card of a person who has died, shall within 30 days after the document came into his or her possession, hand over or send by registered post such document for cancellation to the Registrar General.

(2) A document handed over or sent to the Registrar General in terms of subsection (1), shall without delay after the receipt thereof be canceled

and destroyed in the prescribed manner and, unless a relative of the deceased person indicates in writing that he or she wants it.

(3) When it comes to the attention of the Registrar General that any person is in possession of a document being or purporting to be an uncanceled personal identity card of a person who has died, he or she shall without delay seize that document, and thereupon the provisions of subsection (2) shall *mutatis mutandis* apply in respect of that document.

Secrecy

24.(1) Subject to the provisions of subsection (2) and (3), no person shall publish or communicate to any other person any information recorded in the population register, an personal identity card, or any certificate which he or she acquired by virtue of his or her functions in terms of any law, except for the purposes of this Act, judicial proceedings or the performance of his or her functions in terms of any other law, and no person who came into possession of any such information which to his or her knowledge has been communicated to him or her in contravention of the provisions of this section, shall publish the information or communicate it to any other person.

(2) Notwithstanding the provisions of subsection (1), the Registrar General may furnish any information in respect of a person whose name is included in the population register to -

- a). any person or institution on behalf of, and on the written instruction of, any such person;
- b). any government department, statutory body;
- c). any other organisation, body, society or institution,

subject to the restrictions, conditions, exclusions, directives and fees as may be prescribed.

(3) No information may be furnished to any organisation, body, society or institution contemplated in subsection (2) unless the information is required for the exercise or protection of any rights, is in the public interest, or is for the compilation of a voter's roll.

Reproduction of documents

25.(1). Notwithstanding anything to the contrary contained in any other law, the Registrar General may, in respect of a person or class of persons determined by him or her, reproduce or cause to be reproduced any document from which the population register is compiled or maintained by means of any process which in his or her opinion accurately and durably reproduces such documents, and may preserve or cause to be preserved those reproductions in lieu of such documents.

(2) A reproduction referred to in subsection (1) shall, notwithstanding anything to the contrary contained in any other law, for all purposes be deemed to be the original document from which it was reproduced, and a copy of such reproduction which has been certified by the Registrar General as a true copy, shall in any court of law be conclusive proof of the contents of the relevant original document.

Regulations

26.(1) The Minister may make regulations as to -

a). the issue of duplicate personal identity cards, temporary identity certificates, or other certificates, the circumstances under, and the conditions subject to, which they may be issued and the fees payable therefor;

b). the form of and the issue of certificates in respect of particulars contained in the population register or in an personal identity card, the purposes for which such certificates may be used and the evidential value thereof;

c). the issuing of instructions and the prescribing of forms by the Registrar General which may be necessary for the effective execution of the provisions of this Act, and in general, as to all matters which, in terms of this Act, are required or permitted to be prescribed or which he or she deems necessary or expedient to prescribe in order that the objects of this Act may be achieved.

(2) Any regulations made under subsection (1) may prescribe penalties of a fine of not more than \$1000 or of imprisonment for a period not exceeding two years for any contravention thereof or failure to comply therewith.

(3) Any fees which may be prescribed under this Act shall be prescribed by the Minister with the concurrence of the Minister of Finance.

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Explanatory Memorandum

The Act seeks to provide a legal mechanism to allow for the issuance of national identity cards for citizens, persons of I-Kiribati descent and those who are lawfully in Kiribati. It allows for the use of records currently legalized under the Birth, Death and Marriage Ordinance (CAP.5) and the use of the same for election and citizenship purposes under the Election Ordinance, and the Citizenship Ordinance.

Part 1 – Preliminary

Section 1, refers to the citation or short titles of the Act.

Section 2, provides for the definition of the words and phrases that are used in the Act.

Section 3, provides for the use of information under the Birth, Death and Marriage Ordinance and other information available to the Registrar-General to be used for establishing a population register.

Section 4, allows for the Act to be applicable not only to citizens but also to those lawfully residing in the country.

Section 5, allows the Registrar General the power to delegate functions and powers provided under this Act to a public officer.

Part II – Population Register

Section 6, the population register is provided under this section and the same allows for the maintenance of it by the Registrar General.

Section 7, restricted the access of such information by any person except in accordance to the provision of this Act. This in effect, guarantees the safe, confidential and high security for the data.

Section 8, deals with the assignment of serial number and the particulars that may be incorporated for the purpose of the section.

Section 9, provides particulars that are needed to be entered against the named person eligible under section 4).

Section 10, makes it compulsory for the applicant to furnish two prescribed passport photos at the applicant's expense, if he or she is applying for the identification cards or renewing it.

Section 11, provides for a legal mechanism to allow the collection of finger prints from eligible individuals.

Section 12, allows for the change in abode of resident. This will allow the Registrar General to updates the population register and to make it easier for the tracking of individuals for election purposes.

Section 13, empowers the Registrar General, to request any person to furnish any proof of the correctness of particulars being provided for the purpose of the Act. At the same time, it empowers the Registrar General to investigate or cause to investigate matters in respect of the Act.

Section 14 seeks to compliment the powers of the Registrar General under the Birth, Death and Marriage Ordinance (CAP 5) in issuing out birth, dead and marriage certificates under this Act.

Part III – Identity Card

Section 15 refers to particulars that are authorized to be displayed on an identification card issued under this section. Section 17 provides for the application process, while section 18 allows for a three year life span of the card. This pave way to minimize registration every year. Section 19, on the other hand, provides for proof of identity if required by an authorized officer. An authorised officer includes a police officer, an agent of the Ministry or any other group of persons designated by the Minister in writing.

Part IV – Offences and Penalties

This part has only one section which provides for offences against any breach of the Act. What is important to note is that under subsection (2) an offence is punishable by a fixed fine of not less than \$500.00 but not more than \$2000.00 or a prison term of not more than 2 years or both. This will allow for a strong deterrence to those who seek to compromise the secrecy and sensitivity of the information that are collected under the provisions of the Act.

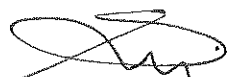
Part V – General Provisions

This part deals with the process of correcting, cancelling and replacing of identification cards, it deals with surrender, seizure of cards of deceased persons. It also covers for the secrecy of the data being collected and seeks to protect it from abuse or fraudulent acts. It also provides the reproduction of documents by the Registrar General under the Act and the power of the Minister to make regulations for the advancement of the Act

Hon. Natan Teewe
Minister of Justice
24/07/2018

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU


This printed impression of the National Identity Registration Act has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 19th November 2018 and is found by me to be a true and correctly printed copy of the said Bill.


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Eni Tekanene

Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this day of
..... 2018.


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Eni Tekanene

for **Clerk of the Maneaba ni Maungatabu**