

THE REPUBLIC OF KILIBATI
(No. 11 of 1985)

I assent,

21. Tabu
Beretitenti.

18/12 1985.

AN ACT TO AMEND THE PRISONS ORDINANCE
(Cap 76)

Commencement:

18/12/1985.

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

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| Short title. | 1. This Act may be cited as the Prisons (Amendment) Act 1985 |
| Insertion of section 5A. | 2. After section 5 of the Prisons Ordinance (Cap 76) as amended in this Act referred to as the "Principal Ordinance", the following section is inserted:

"Appointment of other prison officers. 5A. Prison officers below the rank of Superintendent of Prisons and not below the rank of Assistant Superintendent of Prisons shall be appointed by the Beretitenti, acting in accordance with the advice of the Public Service Commission in accordance with section 9 of the Constitution." |
| Amendment to section 8. | 3. Section 8 of the Principal Ordinance is amended by repealing the following words wherever they occur in section 8:

"Subject to section 99 of the Constitution,". |
| Amendment to section 20 | 4. Section 20 of the Principal Ordinance is amended in subsection (1) by adding the following:

" Provided that section 99 of the Constitution shall not apply to this section if the person appointed as a prison medical officer by the Chief Medical Officer under this section is a government medical officer who -

(a) has already been appointed under section 99 of the Constitution; and

(b) is employed in the public service of the Government." |

Insertion of section 22 A.

5. After section 22 of the Principal Ordinance, the following section is inserted in Part V:

"Methods of dealing with offences of misconduct by senior prison officers.

22A(1) Any offences or misconduct committed by a prison officer of or above the rank of Assistant Superintendent in regard to which criminal proceedings are not instituted before a Court shall be dealt with and punished in accordance with the National Conditions of Service.

(2) The provisions of the National Conditions of Service having reference to suspension and interdiction shall apply in the case of a prison officer of or above the rank of Assistant Superintendent not only in respect of offences and misconduct referred to in subsection (1) but also in respect of any offence in regard to which criminal proceedings are instituted or about to be instituted in a court.

(3) A prison officer of or above the rank of Assistant Superintendent suspended or interdicted under the provisions of the National Conditions of Service shall not by reason of such suspension or interdiction cease to be a member of the prison service:

Provided that the power, privileges and benefits vested in him as a member of the prison service shall be in abeyance during the period of such suspension or interdiction but he shall remain subject to the same responsibilities, discipline and penalties and to the same authority as if he had not been suspended or interdicted.

(4) A prison officer of or above the rank of Assistant Superintendent convicted of an offence by a court may be dismissed in accordance with the provisions of the National Conditions of Service".

Insertion of section 24 to 30 inclusive.

6. After Section 23 of the Principal Ordinance the following sections are inserted:

(a) "Punishment which may be awarded by certain officers.

24(1). The Superintendent of Prisons, or the officer in charge, may inquire into the truth of any charge under the last preceding section against a subordinate officer and if his decision is against the accused may impose on him any one or more of the following punishments -

- (i) admonishment;
- (ii) reprimand;
- (iii) confinement to quarters for any period not exceeding 14 days with or without punishment duties;
- (iv) fine not exceeding 4 days pay.

(2). A subordinate officer shall not be convicted under subsection (1) unless the charge has been read and investigated in his presence and he has been given sufficient opportunity to cross-examine the witnesses called against him, to give evidence or make a statement himself and to call witnesses on his behalf.

(3). The Superintendent of Prisons may at any time before it is carried into execution confirm, vary or quash any punishment imposed under this section by the officer in charge and may order either generally or in any particular case that any such punishment shall be reported to him before being carried into execution:

Provided that the Superintendent of Prisons shall not increase any punishment without giving the accused an opportunity of being heard.

(b) Special powers of Superintendent of Prisons.

25. The Superintendent of Prisons may in respect of any conviction under section 24 impose any one or more of the punishments mentioned in section 24 or any one or more of the following punishments -

- (i) severe reprimand;
- (ii) forfeiture of pay not exceeding the amount of pay for 14 days which may be due to the convicted subordinate officer;
- (iii) forfeiture of any reward or allowances which the convicted subordinate officer may have earned;
- (iv) reduction in rank or grade;
- (v) dismissal:

Provided that any subordinate officer who has been punished by dismissal or reduction in rank or grade may within 10 days after the decision of the Superintendent of Prisons has been communicated to him

appeal to the Public Service Commission which may confirm or quash, increase or reduce any such punishment or substitute for it any other punishment authorised by section 24 and the decision of the Public Service Commission shall be final, but no increase of punishment shall be made by the Public Service Commission without giving such sub-ordinate officer an opportunity of being heard.

(c) Powers of interdiction.

26(1). The Superintendent of Prisons may at any time interdict from duty any subordinate officer pending an enquiry under section 24 into any disciplinary offence of which he is charged or pending trial or enquiry into any offence, whether under this Ordinance or any other law, of which he is charged before a court.

(2). A subordinate officer interdicted from duty shall not by reason of such interdiction cease to be a prison officer:

Provided that the powers, privileges and benefits vested in him as a prison officer shall be in abeyance during his interdiction but he shall continue subject to the same responsibilities, discipline and penalties and to the same authority as if he had not been interdicted.

(3). Save as hereinafter provided a subordinate officer shall not receive pay for any period during which he is interdicted from duty.

(4). A subordinate officer interdicted from duty shall be allowed to receive such proportion of his pay not being less than one half as the Superintendent of Prisons may think fit.

(5). On the termination of any period of interdiction from duty of a subordinate officer the Superintendent of Prisons may, if he thinks fit, direct the whole or any part of the pay stopped under this section to be paid to such subordinate officer.

(d) Power of officer holding enquiry.

27(1). Every prison officer empowered to make enquiry under this Part shall have power to summon and examine witnesses on oath or affirmation and to require the production of all documents relevant to such enquiry and to adjourn

every case which is required under section 24 to be reported to the Superintendent of Prisons the proceedings and evidence shall be recorded in writing.

(2). Any person summoned as a witness under subsection (1) who fails to attend at the time and place mentioned in the summons or on adjournment, or refused to answer any question that is lawfully put to him, shall be guilty of an offence and shall on conviction, be liable to a fine not exceeding \$10 and to imprisonment for 1 month:

Provided that nothing contained in this section shall render any person compellable to answer any question in respect of any matter which would have been protected from disclosure on the ground of privilege if the proceedings had been held in any court.

~~(c) Power to suspend punishment.~~

~~28(1). Subject to this section any punishment awarded under section 24 may be suspended by order of the Superintendent of Prisons for such period not exceeding 6 months, as he may determine.~~

(2) Where any punishment has been suspended under this section the officer in charge of the prison wherein the offender is stationed or such other officer as may be directed by the Superintendent of Prisons shall, at the expiration of the period of suspension, review the case, taking into consideration such reports on the conduct of the offender during the period of suspension as shall be available. Such officer may thereupon order the punishment to be remitted or reduced, in which case he shall cause any entry relating to the offence which has been made in the records of the offender to be expunged or altered, as the case may be, or he may order the punishment to be forthwith carried into execution:

Provided that if during the period of suspension the offender is convicted of a further offence under section 23 the suspended punishment shall forthwith be carried into execution, and if punishments of confinement to quarters have been awarded in respect of both offences such punishments shall run consecutively:

Provided further that if, during the period of suspension the offender is convicted of a further offence as aforesaid, the second punishment shall not be suspended.

(f) Dismissal and reduction in rank of officers convicted.

29. The Superintendent of Prisons may reduce in rank or grade or may dismiss any subordinate officer who has been convicted by the court in respect of any offence whether under this Ordinance or otherwise, unless such prison officer has successfully appealed from such conviction.

(g) Fine to be recovered by stoppage of pay.

30(1). All Fines imposed on a subordinate officer in respect of offences under this Ordinance or any regulations made thereunder shall be recovered by stoppage of the pay due at the time of committing such offence and thereafter accruing due to the convicted prison officer.

(2). The amount of stoppage in respect of any fines or for any other cause authorised by this Ordinance or by the regulations made thereunder shall, subject to any appeal to the Superintendent of Prisons, be in the discretion of the prison officer by whom the fine was imposed but shall in no case exceed one-third of the pay of the convicted subordinate officer; and whenever more than one order of stoppage is in force against the same person so much only of his pay shall be stopped as shall leave him a residue of at least two-thirds of his pay.

(3). Where more than one order of stoppage is made upon the same person, the orders later in date shall, if necessary, be postponed as to their enforcement until the earlier orders have been discharged.

Amendment to section 58.

7. Section 58 of the Principal Ordinance is amended by repealing the whole of section 58.

Amendment to section 59.


8. Section 59 of the Principal Ordinance is amended by repealing the whole of section 59.

Savings.

9. (a) Any order under section 59 of the Principal Ordinance relating to the release on licence of a prisoner which has effect when this Act comes into force shall continue to have effect as if that section had not been repealed and that any such order may at any time be varied or revoked in accordance with section 59 of the Principal Ordinance as if such section were still in force.

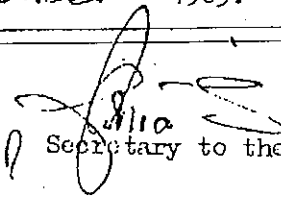
- (b) Nothing in this Act shall in any way affect or invalidate an appointment of a prison officer made under the Principal Ordinance immediately before the commencement of this Act.

This printed impression has been examined by me with the Bill which passed the Maneaba ni Maungatabu on the 10th day of December, 1985 and is found by me to be a true and correctly printed copy of the said Bill.

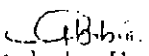

Clerk to the Maneaba
ni Maungatabu

Published by exhibition -

- (a) at the Public Office of the Peretitenti this
18th day of December 1985.


Secretary to the Cabinet

- (b) at the Maneaba ni Maungatabu this 18th day
of December, 1985.


Clerk to the Maneaba
ni Maungatabu