REPUBLIC OF KIRIBATI
(No.1 of 2019)

I assent,

Beretitenti

15/4/ 2019

AN ACT

entitled

AN ACT TO AMEND THE MARITIME ACT 2017

Commencement:

2019

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

1 Short title

This Act may be cited as the *Maritime (Amendment) Act* 2019.

2 Amendment to section 4

Section 4(1) of the *Maritime Act 2017* is amended as follows:

(a) By adding the following definitions in the appropriate alphabetical order:

(i) **"the administrator of the Register of Foreign Vessels"** and **"administrator"** means the administrator approved under section 16(2);

(ii) **"domestic vessel"** means a vessel which is owned by qualified persons and for which an application for registration on the Register of Domestic Vessels under section 25 may be made;

(iii) **"foreign vessel"** means any vessel which is not a domestic vessel and which is regulated under the provisions of this Act; and

(iv) **"the Register of Foreign Vessels"** means the register maintained under section

17B.

(b) By deleting the definition of "authorised agent";

(c) **"officer"** refers to a surveyor, shipping officer, shipping inspector and all other officers who are authorised under the Act to perform functions for the purposes of this Act, but not including the administrator or its employees.

(d) By deleting the definition of **"Qualified Person"** and replacing it with the following:

"Qualified Person" means:

(a) a person who is a citizen of Kiribati;

(b) a corporation established by an Act of Kiribati;

(c) a body corporate —

(i) established or registered in Kiribati; and

(ii) having a place of business in Kiribati;

(d) a person or corporation which maintains an office in Kiribati, which is staffed by persons accountable to the Government of Kiribati on behalf of the owner or owners, at least one of whom is a citizen of Kiribati.";

(e) By deleting the definition of **"Register"** and replacing it with the following:

"the Register" means:

(a) the Register of Domestic Vessels established under section 17A, when the matter relates to a domestic vessel; or

(b) the Register of Foreign Vessels established under section 17B, if the matter relates to a foreign vessel.";

(f) By deleting the definition of **"registered vessel"** and replacing it with the following:

"registered vessel" means a vessel registered on the Register of Domestic Vessels or the Register of Foreign Vessels";

3. Amendment of Section 6(x)

The Maritime Act 2017 is amended by repealing Section 6(x) and replacing it with the following:

6(x) "Make such regulations, approved rules, standards, guidelines, operating procedures or codes of practice as are deemed necessary for the efficient implementation and administration of this Act."

4 Insertion of section 7A

Part III of the *Maritime Act 2017* is amended by:

(a) amending the title of the Part to be "**PART III POWERS OF THE MINISTER AND FUNCTIONS OF THE DEPARTMENT**"; and

(b) inserting section 7A as follows:

"7A Functions of the Department in relation to maritime regulation and safety

(1) The functions of the Department responsible for the management of the maritime sector and the promotion of maritime safety include aspects of maritime administration and regulation under this Act, any other relevant law and all applicable international maritime conventions, including all of the following:

(a) the registration of vessels and the maintenance of registers of vessels in accordance with this Act;

(b) the inspection and survey of vessels;

(c) the regulation of small craft;

(d) the certification of seafarers, and of marine pilots;

(e) the employment and welfare of seafarers;

(f) all aspects related to safety of navigation, and all matters provided for under Chapter V of the Safety Convention, including:

(i) the regulation and operation of aids to navigation to enhance safe and efficient navigation of individual vessels and vessel traffic, and the imposition and enforcement of requirements related to navigational aids to be carried on board a vessel for the purpose of assisting navigation;

(ii) functions involving hydrography, including the collection and management of hydrographic data; the preparation and approval of charts and surveys for maritime purposes, sharing of information concerning charting and the giving of Notices to Mariners;

(iii) navigational and meteorological warnings;

(iv) regulation of and support for effective search and rescue services and operations;

(v) vessel reporting and tracking control systems;

(vi) manning of vessels and setting operational limitations;

(vii) imposition of requirements applicable to pilotage of vessels, and regulation of pilotage services;

(viii) design and maintenance of vessels

(ix) navigational systems and equipment;

(x) operational and testing requirements for equipment, including communications equipment, steering gear and sources of electrical power.

(g) the imposition and enforcement of requirements related to maritime security;

(h) authority over wrecks and salvage;

(i) other responsibilities involving the regulation, management, application and enforcement of requirements applying to the maritime sector to achieve compliance with applicable international maritime conventions, agreements and arrangements;

(j) all aspects of flag state control over vessels entitled to fly the Kiribati flag;

(k) all aspects of port state control over vessels within the jurisdiction of Kiribati;

(m) marine pollution prevention and response, including ballast water management, the regulation of anti-fouling, and other related matters;

(n) regulation of the construction, use and inspection of maritime infrastructure;

(o) setting and enforcing standards of construction of vessels within Kiribati, and standards applying to the repair or salvage of vessels;

(p) the regulation of vessels undertaking research in Kiribati waters;

(q) other maritime functions under applicable laws, or as approved by Cabinet.

(2) Regulations and approved rules, standards, guidelines, operating procedures or codes of practice may be made under the authority of this Act in relation to any of the matters listed in subsection (1).

(3) During periods of emergency and in the event of natural disasters, the Department shall perform such roles, functions and powers in relation to the protection of shipping and maritime infrastructure and the safety of life at sea, as are consistent with any applicable law relating to emergencies and disaster management."

5 Repeal and replacement of section 9

Section 9 of the *Maritime Act 2017* is repealed and replaced with the following:

"Wrongfully using National Flag or claiming the national character of Kiribati

9. (1) An owner or master of a vessel owned by a qualified person who -

(a) uses the National Flag on a domestic vessel that is required to be registered but which is not registered under this Act; or

(b) in any other way makes a domestic vessel assume the national character of Kiribati when it is not registered as a domestic vessel -

each commit an offence.

Penalty: A fine not exceeding $5,000

(2) Subject to subsection (3), the owner and master of a foreign vessel who -

(a) uses the National Flag on the foreign vessel when the vessel is not registered on the Register of Foreign Vessels; or

(b) in any other way makes the foreign vessel assume the national character of Kiribati when it is not registered on the Register of Foreign Vessels -

each commit an offence.

Penalty: (i) A fine not exceeding $5,000,000 if the flag is used or the national character is assumed while the vessel is in breach of any obligation under section 50;

(ii) A fine not exceeding $500,000 in any other case

(3) Subsection (2) shall not apply where the National Flag is displayed on a vessel within Kiribati waters as a courtesy to Kiribati.

(4) A vessel in respect of which an offence has been committed under this section is liable to forfeiture.

(5) The Director has authority to take any action that is necessary to detain a foreign vessel which is in breach of subsection (2) and may cooperate with, and delegate powers to, any maritime administration of a foreign country to facilitate the detention, forfeiture and disposal of any such vessel.

(6) The Minister has authority to approve any arrangement made with the maritime administration of a foreign country under subsection (5) which involves the sharing of the costs and proceeds from the sale of a forfeited vessel between the foreign administration and the Government of Kiribati."

6 Repeal and replacement of section 16

Section 16 of the *Maritime Act 2017* is repealed and replaced with the following:

"Registrar of Vessels and appointment of registry administrator

16. (1) The Director shall hold the office of Registrar of Vessels and the office of Registrar of Seafarers under this Act and has authority to exercise all powers of those offices under this Act.

(2) The Minister has authority, with the advice of Marine Board, to approve the appointment of an administrator for the Register of Foreign Vessels established under section 17B.

(3) Nothing in this section affects the entitlement of any person who is operating and managing the Register of Foreign Vessels on behalf of the government prior to this section taking effect from continuing to manage the Register of Foreign Vessels for the duration of the current agreement which authorises such an arrangement, but the management of the Register of Foreign Vessels is subject to the provisions of this Act.

(4) The administrator of the Register of Foreign Vessels has authority to exercise the powers of the Registrar under this Part and Parts VII, VIII and IX in relation to the registration of foreign vessels and related registry and regulatory matters, and is accountable to the Director for the proper, lawful and efficient management of the register under its control.

(5) For the purposes of subsection (4) the Director has authority to:

(a) require that any record or document related to the Register of Foreign Vessels be provided within a specified time;

(b) require that any information related to the Register of Foreign Vessels, or to any vessel on the register, be provided within a specified time;

(c) give directions to the administrator to ensure that this Act, any other relevant law, approved government policy, all international maritime conventions and all other obligations applying under this Act are complied with in relation to the management of the register, and by vessels which are registered on the register;

(d) require that conditions be applied to the registration of any vessel or class of vessel on the Register of Foreign Vessels, and such conditions can be applied at the time of registration or at any time while the vessel is registered on the Register of Foreign Vessels;

(e) require the administrator to undertake any investigation in relation to the operation of the Register of Foreign Vessels, or any vessel on the register, at the cost of the administrator, and that a report of the findings of the

investigation be provided to the satisfaction of the Director and at a time specified by the Director;

(f) require the administrator to take any appropriate action to address any matter identified during an investigation that the administrator has undertaken;

(g) require that the registration of a foreign vessel be suspended or cancelled on any of the following grounds:

(i) the vessel has breached this Act or any relevant law or government policy;

(ii) the vessel has breached any condition applicable to its registration;

(iii) the vessel has breached any applicable international maritime convention;

(iv) the vessel has breached any obligation applying under a treaty or convention to which Kiribati is a Party or which applies in the area where the vessel is operating, including any treaty or convention relating to fisheries and the protection of the environment;

(v) the vessel has breached any applicable trade sanction or any resolution of the United Nations; or

(vi) if the registration of that vessel compromises the good standing of Kiribati as a maritime nation in any manner;

(h) take any other action that is necessary to achieve compliance with applicable international conventions and to maintain the integrity of the Register of Foreign Vessels.

(6) If the administrator of the Register of Foreign Vessels fails to comply with any requirement under this Act, or any requirement or direction imposed by the Director under subsection (5), the administrator, and any officer or employee of the administrator who is responsible for the breach, all commit an offence.

Penalty: (a) A fine not exceeding: $50,000, if the offence is committed by an individual; and

(b) A fine not exceeding: $250,000 if the offence is committed by a company.

(7) The commission of an offence under subsection (6) is grounds for the revocation of approval for the administration of the Register of Foreign Vessels, without any right to compensation for the revocation of such rights."

7 Repeal and replacement of section 17

Section 17 of the *Maritime Act 2017* is repealed and replaced with the following:

"Register of Domestic Vessels

17A (1) The Director shall cause to be kept at Betio a Register (to be known as the Register of Domestic Vessels), in such form as the Director determines.

(2) The Director shall cause to be entered in the Register of Domestic Vessels all of the following particulars:

(a) all domestic vessels registered under this Act;

(b) the other entries which are required by this Act to be entered in relation to registered vessels; and

(c) particulars of such other matters as the Director thinks fit.

(3) Any person may inspect the Register of Domestic Vessels at any time during the official hours on payment of the fee (if any) as prescribed.

(4) The Director is responsible for the safekeeping of the Seal of the Register of Domestic Vessels and has authority to affix the Seal to any document for a lawful purpose under this Act.

(5) No other person has the right to affix the Seal of the Register of Domestic Vessels to any document, and any person who breaches this subsection commits an offence.

Penalty: A fine not exceeding $10,000 or to a term of imprisonment for a term of up to 3 months."

8 Insertion of section 17B

The *Maritime Act 2017* is amended by inserting section 17B as follows:

"Register of foreign vessels

17B (1) The Register of Foreign Vessels must be established and maintained in accordance with the provisions of this Part, and any Regulations made under this Act.

(2) The Register of Foreign Vessels must be kept at a place approved by the Minister.

(3) A copy of the Register of Foreign Vessels must be maintained at Betio in accordance with any requirements or directions given by the Director.

(4) The administrator of the Register of Foreign Vessels is responsible for the

safekeeping of the Seal of the Register of Foreign Vessels and has authority, subject to any conditions imposed by the Minister from time to time, to affix the Seal to any document related to the Register of Foreign Vessels for a lawful purpose under this Act.

(5) No other person has the right to affix the Seal of the Register of Foreign Vessels to any document, unless authorised in writing by the Minister, and any person who breaches this subsection commits an offence.

Penalty: A fine not exceeding $10,000 or to a term of imprisonment for a term of up to 3 months.

(6) The requirements applying to registered vessels under Parts V, VII, VIII and IX apply to vessels registered on the Register of Foreign Vessels, despite any reference in those provisions to "qualified persons".

(7) The administrator of the Register of Foreign Vessels is responsible for ensuring that:

(a) all registered vessels on that register comply with the requirements of this Act;

(b) that necessary notifications and reports are given in accordance with international maritime conventions, where the requirements for such notifications and reports relate to vessels registered on the Register of Foreign Vessels;

(c) the administration of the Register of Foreign Vessels otherwise complies with all of the obligations which the government of Kiribati has assumed under all of the following:

(i) all international maritime conventions applicable to the particular vessel;

(ii) all international treaties and conventions related to fisheries and environment protection applicable to the particular vessel; and

(iii) all applicable trade sanctions and other requirements imposed by the United Nations -

where such obligations arise from the administration of the register, and from the vessels registered on the register;

(d) the registration of a registered vessel is cancelled or suspended if its registration compromises the good standing of Kiribati as a maritime nation in any manner -

and despite any provision of any applicable agreement or any law to the contrary, is liable to and indemnifies the government for the consequences arising from any non-compliance."

9 Repeal and replacement of section 20

Section 20 of the *Maritime Act 2017* is repealed and replaced with the following:

"Domestic vessels to be registered

20. (1) Every domestic vessel, other than an exempt vessel, which is owned wholly by a qualified person, or by persons each of whom is a qualified person must be registered under this Act.

(2) Where subsection (1) would apply in relation to a vessel if it were not an exempt vessel, the owner or owners of the vessel may apply for registration of the vessel under this Act.

(3) A vessel required by subsection (1) to be registered is liable to be detained at a port or place in Kiribati until the Master of the vessel, if requested to do so by the Registrar, produces to the Director the vessel's registration certificate."

10 Repeal of section 42

The *Maritime Act 2017* is amended by repealing section 42.

11 Amendment of section 43

Section 43 of the *Maritime Act 2017* is amended by:

(a) deleting the words "authorised agent" wherever they appear and replacing them with the words "administrator of the Register of Foreign Vessels"; and

(b) adding paragraphs (g) - (i) (inclusive) as follows:

"(g) preparing and submitting to the Director and to the Ministry of Finance monthly accounts showing all taxes and fees collected in relation to the registration of foreign vessels and other services provided in relation to them;

(h) promptly forwarding the entitlements of the Government to a share of the taxes and fees collected in relation to the Register of Foreign Vessels in accordance with the agreement applying to such matters;

(i) submitting all accounts and records for audit by an auditor appointed by the Government from time to time and co-operating with any such audit or inspection."

12 Amendments to sections 43 - 49 (inclusive)

Sections 43 - 49 (inclusive) of the *Maritime Act 2017* are amended by deleting the words "authorised agent" wherever they appear and replacing them with the words "administrator of the Register of Foreign Vessels";

13 Repeal and replacement of section 50

Section 50 of the *Maritime Act 2017* is repealed and replaced with the following:

"Requirements before Registration of Foreign Vessels

50.(1) A foreign vessel must not be registered on the Register of Foreign Vessels unless the owner or owners of the vessel have lodged a declaration in writing, undertaking that the vessel will not be used for any of the following activities –

(a) storage and transportation of illegal drugs;

(b) people smuggling, trafficking in persons or unlawful carriage of refugees;

(c) involvement in, or support for, any war or armed conflict;

(d) supporting civil unrest in any State or territory;

(e) terrorism or activities in support of terrorism;

(f) breach of any trade sanction imposed by the United Nations or which is supported by the Government of Kiribati;

(g) breach of any international treaty or agreement related to fisheries or the protection of the environment, as it applies in any place in the world where the vessel may operate; and

(f) any other activity which would be contrary to the laws of Kiribati or any international convention to which Kiribati is a Party.

(2) The Director has authority to order the immediate cancellation of the registration of any foreign vessel on the grounds that the undertaking has been breached or is being breached.

(3) The Director has authority to require that a registered vessel that has been registered without an undertaking required by this section having been provided, to provide such an undertaking within a specified time.

(4) The administrator of the Register of Foreign Vessels must:

(a) immediately cancel the registration of a foreign vessel when an order has been made under subsection (2); and

(b) cancel the registration of a foreign vessel if its owner fails to comply with a requirement applied under subsection (3); and

(c) immediately bring to the attention of the Director any suspicion or evidence of a breach of an undertaking given under this section."

14 Repeal and replacement of section 51

Section 51 of the Maritime Act 2017 is repealed and replaced by the following:

Interpretation

51. In this part –

"agent' means an agent who is licensed under this Part, for a vessel;
"qualified person" means:

(a) a person who is a citizen of Kiribati;
(b) a corporation established by an Act of Kiribati;
(c) a company which is managed or co-managed by a citizen of Kiribati on behalf of the owner or owners and accountable to the Government of Kiribati; and
(d) a body corporate –
  (i) established or registered in Kiribati; and
  (ii) having a place of business in Kiribati;

"vessel" means a vessel registered in or outside Kiribati.

15 Repeal and replacement of section 52

Section 52 of the *Maritime Act 2017* is repealed and replaced with the following:

Licensing of agents

52. (1) The Minister may, on the application of any qualified person, license such qualified person to be an agent for a vessel for transacting business relating to the entry or clearance or any other related matters of any vessel in Kiribati waters.

(2) The Minister may, at any time, limit the number of qualified persons to be licensed under subsection (1).

(3) The Minister may, by order, revoke the license issued to any qualified person under the following grounds:

(a) if the qualified person has been guilty of fraud or misconduct as agent;
(b) if the qualified person, being a natural person, is unable to efficiently act as agent by reason of mental or physical incapacity;
(c) if the qualified person breaches or is non-compliant to any of the provisions under this Part; or
(d) for any other reasonable cause.

16 Repeal and replacement of section 61 (1) (b)

Section 61 (1) (b) of the Maritime Act 2017 is repealed and replaced with the following:

(b) a licensed pilot, with a valid pilot license, has been engaged.

17 Repeal and replacement of section 96 (1) (d)

Section 96 (1) (d) of the Maritime Act 2017 is repealed and replaced with the following:

(d) A Master mariner to be appointed by the Minister, and

18 Repeal and replacement of section 99

Section 99 of the *Maritime Act 2017* is repealed and replaced with the following:

"International maritime conventions applicable to registered vessels

99A (1) The international maritime conventions listed in Schedule 1 have the force of law in Kiribati and apply to all registered vessel, subject to any specific exemptions or exclusions specifically provided for in a convention to a registered vessel or class of registered vessel:

(2) The Minister may add to or vary the list of international maritime conventions in Schedule 1 by Regulations made under this Act, and any additional international maritime convention shall have the force of law in Kiribati and apply to all registered vessels.

(3) An amendment made to a Convention referred to in subsection (1) does not apply if Kiribati has refused to consent to the amendment.

(4) Any Regulation or Code made under a Convention referred to in subsection (1) (either before or after this section takes effect) is deemed to be part of the relevant Convention.

Vessels to comply with convention obligations and requirements

99B (1) This section applies to;

(a) all vessels entitled to fly the Kiribati flag;

(b) all vessels which are in Kiribati waters -

which are subject to the requirements of an international maritime convention as provided for by this Act, any other law or under the provisions of an applicable Convention (whether based upon the class, type, size, use or voyage of the vessel, or otherwise).

(2) Subject to this Act and the Regulations, a vessel to which an international maritime convention applies in accordance with subsection (1) must:

(a) be operated in a manner that complies with the requirements specified in all the Conventions applicable to the vessel;

(b) maintain all records and plans required under all the Conventions applicable to the vessel;

(c) provide all information and notifications required under all the Conventions applicable to the vessel;

(d) hold current certificates as required under all the Conventions applicable to the vessel;

(e) comply with the design requirements specified under all the Conventions applicable to the vessel;

(f) carry equipment required under all the Conventions applicable to the vessel, and ensure that it is maintained in good working order;

(g) provide the manning, training and levels of competency required under all the Conventions applicable to the vessel;

(h) otherwise comply with the requirements specified in an applicable Convention, subject to any exemptions or exclusions provided for in the specific convention.

(3) An owner or master of a vessel which contravenes subsection (2), commits an offence.

Penalties: (a) A fine not exceeding $5,000 if the offence relates to a domestic vessel; or

(b) A fines not exceeding $100,000 if the offence relates to a foreign vessel

(4) In addition to any penalty imposed under subsection (3) and to any action which may be taken in accordance with law, the following action can be taken by the Director in relation to a vessel which has breached a requirement applying under this section:

(a) the vessel may be detained on the order of the Director;

(b) the registration of a vessel registered under this Act can be suspended or cancelled on the order of the Director;

(c) notification of a breach by a vessel which is not registered under this Act shall be given by the Director to the maritime administration responsible for regulating the vessel;

(d) disciplinary action can be taken against the master or any other crew member who is responsible for or involved in the breach;

(e) the owner of the vessel can be ordered by a court to reimburse or cover

the cost of any remedial action, if the breach has resulted in damage to property or to the environment in any way.

Regulations to apply and enforce international maritime conventions

99C (1) Regulations may be made under this Act to implement, apply and enforce any international maritime convention.

(2) Without limiting the power to make regulations made under subsection (1), regulations may provide for:

(a) the payment of fees;

(b) offences and additional penalties for failure to observe or comply with requirements and obligations under any international maritime convention or other obligation applying under international law;

(c) powers of inspection and enforcement for any purpose relevant to the application of international obligations."

19 Repeal and replacement of section 139

Section 139 of the *Maritime Act 2017* is repealed and replaced with the following:

"**Registrar of Seafarers**

139 The functions and duties of the Registrar of Seafarers under this Act are exercisable by:

(a) the Director, in relation to Kiribati seafarers, and crews on domestic vessels; and

(b) the administrator of the Registry of Foreign Vessels in relation to crews on vessels on that register".

20 Repeal and replacement of section 195 (b)

Section 195 (b) of the Maritime Act 2017 is repealed and replaced by the following:

(b) give the vessel in pilotage charge to licensed pilot, holding a valid pilot license.

21 Add section 197 (c)

(c) vessels approved by the Honourable Minister, with a defined exemption period, in consultation with Cabinet.

22 Insertion of section 267

The *Maritime Act 2017* is amended by inserting section 267 as follows:

"Approved rules and standards etc.

267 (1) For the purposes of implementing the provisions of this Act, the Minister may make approved rules, standards, guidelines, operating procedures or codes of practice.

(2) Without limiting the generality of subsection (1), approved rules, standards, guidelines, operating procedures or codes of practice may be applied in relation to:

(a) any matter associated with the operation of shipping and the movement of passengers and cargoes on vessels;

(b) the effective regulation, maintenance and protection of maritime infrastructure;

(c) any matter associated with the promotion of safety and security in the maritime sector; and

(d) the effective application, implementation or enforcement of an international maritime convention, and any other obligation applying under international law.

(3) An approved rule, standard, guideline, operating procedure or code of practice made by the Minister under this subsection takes effect when it is approved by the Minister.

(4) The Ministry must take all necessary steps to notify vessel owners and masters, and port service operators, of any action taken under this section.

(5) Failure to provide any notification under subsection (4) does not affect the validity of an approved rule, standard, guideline, operating procedure or code of practice.

(6) An approved rule, standard, guideline, operating procedure or code of practice made by the Minister under this subsection may specify the person or persons to whom it applies, and any such person who refuses or fails to comply with the approved rule, standard, guideline, operating procedure or code of practice commits an offence.

Penalties: (a) A fine not exceeding $5,000 if the offence is committed within Kiribati or involves a domestic vessel; or

(b) A fine not exceeding $100,000 if the offence relates to a foreign vessel."

23 Insertion of section 268

The *Maritime Act 2017* is amended by inserting section 268 as follows:

"Approved forms and fees

268 (1) If any necessary form is not prescribed by Regulations, the Director may approve a form for any purpose under this Act.

(2) If a fee for any matter associated with this Act is not prescribed by Regulations, the Minister may determine and fix the fee which is payable for any regulatory requirement or service provided in accordance with this Act."

24 Insertion of section 269

The *Maritime Act 2017* is amended by inserting section 269 as follows:

"General offence against this Act and Regulations

269 A person who breaches any requirement applying to that person under this Act or Regulations made under this Act, or who refuses or fails to comply with any direction or requirement given under the authority of this Act or the Regulations, and for which no specific offence or penalty is prescribed, is guilty of an offence.

Penalties: (a) A fine not exceeding $5,000 if the offence relates to a domestic vessel; or

(b) A fine not exceeding $100,000 if the offence relates to a foreign vessel"

25 Insertion of section 270

The *Maritime Act 2017* is amended by inserting section 270 as follows:

"Immunities

270 Any officer acting under the authority of this Act for the purposes of implementing the Act are not subject to any action, liability, claim or demand for any matter or thing done or omitted to be done in good faith (whether negligently or not) in the performance or purported performance of any function or duty, or the exercise or purported exercise of any power under this Act, or any other relevant law."

26 Insertion of section 271

The *Maritime Act 2017* is amended by inserting section 271 as follows:

"Extra-territoriality of offences against this Act

271 Proceedings may be taken in relation to any offence that is committed against this Act by any person or vessel at any place within or outside of the jurisdiction of

Kiribati."

27 Repeal and replacement of Schedule 1

Schedule 1 of the *Maritime Act 2017* is repealed and replaced with the following:

"SCHEDULE 1

List of international conventions enforceable under this Act

1. The International Convention for the Safety of Life at Sea, 1974 as amended;
2. The Protocol of 1988 relating to the International Convention for the Safety of Life at Sea 1974, as amended;
3. The International Convention on Standards of Training, Certification and Watch-keeping for Seafarers 1978, as amended;
4. The International Convention on Load Lines 1966, as amended;
5. The Protocol of 1988 relating to the International Convention on Load Lines 1966 as amended;
6. The International Convention on Tonnage Measurement of Vessels 1969, as amended;
7. The Convention on the International Regulations for Preventing Collisions at Sea 1972, as amended.
8. The International Convention for the Prevention of Pollution from Vessels, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
9. The Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Vessels, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
10. The International Convention on the Control of Harmful Anti-fouling Systems on Vessels 2001, as amended;
11. The International Convention for the Control and Management of Vessels' Ballast Water and Sediments 2004, as amended.
12. The Salvage Convention 1989.
13. The 1992 protocols to the International Convention Civil Liability for Oil Pollution Damage (CLC) and the International Fund for Compensation for Oil Pollution Damage 1971(The Fund) and all subsequent protocols and amendments.
14. The International Convention of Civil Liability for Bunker Oil Pollution Damage 2001.
15. The Maritime Labour Convention 2006 (MLC2006)."

Explanatory Memorandum

This Act amends the Maritime Act 2017. The amendment intens to address the following issues; to provide for a robust control and regulation of the Kiribati open registry that Kiribati has sustained for many years, elaborate the roles and functions of the Marine Department and officers responsible to look after maritime and safety, and enforcement of the Act, strengthen provisions on wrongful use of national flag or national character of Kiribati, strengthen and improve provisions dealing with application, implementation and enforcement of the IMO international conventions which Kiribati is a party to on registered vessels, add provisions on formulating standards and rules, fees and forms required for implementation of the Act, including provisions on immunities, general offences, extra territory application of the Act, and rearrange and provide a complete list for schedule 1. The issues are seen crucial for the effective implementation of the Act and have compelled immediate need to have this amendment.

In summary, the contents of this Act are as follows:

Section 1 This Section gives the short title to the Act.

Section 2 This Section gives some further definitions for words used in the amended Act.

Section 3 This Section amends section 6(x) to expand means of implementation and administration of the Act, as the Minister deems necessary.

Section 4 This Section inserts a new section 7A into the Act to state the full range of powers and functions of the Ministry in relation to regulating the maritime sector.

Section 5 This Section repeals and replaces section 9 to make it a serious offence for a foreign ship to illegally fly the Kiribati flag or to purport to be a Kiribati registered vessel.

Section 6 This Section repeals and replaces section 16 to permit the appointment of an administrator of the register of foreign vessels and to ensure that the management of the register is subject to proper regulatory control.

Section 7 This Section repeals and replaces section 17 to separate the management of the domestic register of Kiribati vessels from the operation of the registry of foreign vessels in accordance with best international practice, and to protect the Government of Kiribati from liability for any breaches by foreign ships which are registered on the international registry.

Section 8 This Section inserts a new section 17B to provide for the separate management of the register of foreign vessels in accordance with best practice.

Section 9 This Section repeals and replaces section 20 to require that domestic ships be registered on the domestic register.

Section 10 This Section repeals section 42 to delete references to "authorised agents" which are replaced by a single appointed maritime administrator to ensure that controls can be effectively applied to the management of the Registry of Foreign Vessels.

Section 11 This Section amends section 43 to confirm that "authorised agents" are replaced by a single appointed maritime administrator, and to properly regulate the appointed administrator.

Section 12 This Section amends sections 43 - 49 (inclusive) to delete references to "authorised agents" and to replace them with the words "administrator of the Register of Foreign Vessels".

Section 13 This Section repeals and replaces section 50 to impose requirements applicable to the registration of vessels on the foreign registry. These requirements will ensure that registered vessels do not breach obligations under international law.

Section 14 This Section repeals and replaces section 51 to clarify who may or may not apply to be a shipping agent by inserting an additional definition of a qualified person.

Section 15 This Section repeals and replaces section 52 to enable consistency in the use of the new definition inserted in section 51.

Section 16 This Section repeals and replaces section 61 (1) (b) by adding a more stricter requirement for a licensed pilot, when engaged, for clearance to sail of a vessel.

Section 17 This Section repeals and replaces section 96 (1) (d) to delete "A Representative from any existing piloting service providers" and replace it with "A Master mariner".

Section 18 This Section repeals and replaces section 99 with new sections to apply and enforce all major maritime conventions.

Section 19 This Section repeals and replaces section 139 to clarify the roles of the Director and the appointed administrator as the Registrar of Seafarers in relation to the domestic register and the registry of foreign vessels.

Section 20 This Section repeals and replaces section 195 (b) to delete the appointment by the registered agent and replacing it with a pilot holding a valid pilot license.

Section 21 This Section amends section 197 to expand the circumstances in which a vessel will not require a pilot on board.

Section 22 This Section adds a new section 267 to enable the making and enforcement of approved rules and standards to apply effective regulation over ships and the maritime sector generally.

Section 23 This Section adds a new section 268 to enable approved forms and fees to be applied under this law.

Section 24 This Section adds a new section 269 to create a general offence for any breach of this law and any regulations made under it.

Section 25 This Section adds a new section 270 to prevent legal action to be taken against the government when action is taken in relation to vessels to enforce this law and the relevant maritime conventions.

Section 26 This Section adds a new section 271 to permit action to be taken against foreign vessels which illegally fly the flag of Kiribati

Section 27 This Section repeals and replaces Schedule 1 to make reference to the major maritime conventions, including all of those which are subject to IMO audit.

WILLIE TOKATAAKE
HONOURABLE MINISTER

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression of the Maritime (amendment) Act has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 1st April 2019 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 .15.... day of .....April..... 2019.

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Eni Tekanene
Clerk of the Maneaba ni Maungatabu