

Kiribati - Legislation

REPUBLIC OF KIRIBATI
NATIVE LANDS (AMENDMENT) (NO. 2) ACT 1983
(No. 15 of 1983)

I assent,
Beretitenti.
1983.

AN ACT TO AMEND THE NATIVE LANDS ORDINANCE AND FOR
CONNECTED PURPOSES (CHAPTER 61)

Commencement:
12th August 1983.

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

Short title.

1. This Act may be cited as the Native Lands (Amendment) (No. 2) Act 1983.

Amends Section 12 of Chapter 61.

2. Section 12 of the Native Lands Ordinance ('the Principal Ordinance') is hereby amended by amending '12' to read '12(1)' so that the existing Section 12 in the Principal Ordinance becomes Section 12(1), and by inserting the following subsections as Section 12(2) and 12(3).

12(2): Subject to subsection 12(3) and to any specific provision to the contrary in a lease or sub-lease, the extent of land leased by a lease or sub-lease shall be deemed to and shall include any accretion of land after the commencement of the lease or sub-lease as the case may be, and conversely any erosion after the commencement of the lease or sub-lease as the case may be, diminishing the extent of the land, shall be disregarded.

12(3): The lessor and lessee in the lease or sub-lease as the case may be, may at any time in writing signed by both of them exclude or modify expressly or impliedly the provisions of subsection 12(2).

Transitory provision and retrospective effect.

3. Any question arising after the commencement of this Act as to or involving the extent of land comprised in a lease or sub-lease shall be determined as if the provisions of this Act had been in force at all material dates PROVIDED THAT where before the commencement of this Act an application has been made to the court to determine any such question, that question shall in all stages of the proceedings including an appeal be determined as if this Act had not been passed.

THE NATIVE (AMENDMENT) (No. 2) ACT 1983

EXPLANATORY MEMORANDUM

The state of the law has been hitherto unsatisfactory with regard to the legal position as to

accreted or eroded land.

The question has frequently arisen as to whether land accreted after the date of commencement of the lease or sub-lease is included and comprised in such lease or sub-lease. The law has not been clear on this point, and generally the written leases and sub-lease are silent on it.

This has created problems for the landowners, lessees and sub-lessees and for the courts which have to resolve such matters.

This Act therefore by Section 2 provides that when any land accretes after the date of commencement of the lease or sub-lease, such accreted land shall be, included in the lease or sub-lease. Similarly it has been felt that in fairness the converse should apply and that if land in a lease or sub-lease is eroded then such erosion should be disregarded.

Section 3 of this Act legislates retrospectively, but expressly preserves the rights of those who have already started litigation, to advance their arguments on the pre-existing law.

Michael N. Takabwe

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.

Micheal N. Takabwe

Attorney General

20 July 1983
