
Land Registration Grievance Tribunal Act 2002

REPUBLIC OF KIRIBATI

(No. 7 of 2002)

I assent,

(Sgd: Teburoro Tito)

Beretitenti
26/06/2002

AN ACT TO ESTABLISH A LAND REGISTRATION GRIEVANCE TRIBUNAL AND FOR CONNECTED PURPOSES

Commencement:

2002

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

Short Title

1. This Act may be cited as the Land Registration Grievance Tribunal Act 2002.

Interpretation

2. In this Act unless the context otherwise requires,

"direct descendant" means a person whose descent line from an antecedent relative would entitle, in the law of Kiribati, the person to inherit an interest in land if the antecedent had been the due registered owner of such land;

"family" means the consanguineous persons for the time being entitled to be recognised as registered owner of a plot and their direct descendants;

"family antecedents" means the person from whom, in accordance with the laws of Kiribati, a family descendent would expect to inherit native land;

"intra family complaint" means, an allegation that, as at the time of the determination of the impugned ownership registration, a particular family member was for no apparent or proper reason preferred for registration over other apparently entitled member of the same family; but it shall not be an intra family dispute for the purposes of section 4(3), where the griever, being an adult on or before the 1st day of January 2003, is at least the fifth generation from and including the generation of the family antecedent who, the Tribunal finds, directly suffered the error upon which the grievance is determined to be founded;

"laws of Kiribati" has the meaning given to it in the Laws of Kiribati Act 1989;

"Tribunal" means the Land Registration Grievance Tribunal established under section 3;

The Tribunal

3. (1) There is hereby established a Tribunal to be known as the Land Registration Grievance Tribunal.

(2) The Tribunal shall consist of not more than 3 members who shall be appointed by the Beretitenti acting in accordance with the advice of the Cabinet.

(3) One of the members of the Tribunal shall be –

(a) appointed as a Chairman of the Tribunal; and

(b) a legally qualified person with at least seven (7) years of experience in the practice of law or in a judicial dispute resolution capacity or with such a period of combined experience.

(4) In considering the suitability of a person for appointment as Chairman, the Beretitenti shall have regard to -

(a) the person's experience with the laws of Kiribati and with the administration of the land law in particular; and

(b) the person's experience in the Court process.

(5) In considering the suitability of a person for appointment as a member of the Tribunal, the Beretitenti shall have regard to -

(a) the educational background;

(b) the standing and reputation in the Kiribati community;

(c) the knowledge of the Kiribati culture including family descent structures and land matters;

(d) the experience (if any) in the resolution of land disputes;

(e) the ability to recognise and explain Kiribati family descent;

(f) the island of origin to avoid any conflict of interest;
of such person.

(6) A member may be appointed for particular inquiries for particular claims applications or for a particular set of inquiries from an island or from a part of an island.

(7) Every member of the Tribunal shall hold office for a period of not less than 1 year , and not more than 3 years, but a member may from time to time be reappointed.

(8) The Chief Registrar of the High Court shall provide such secretarial, recording, translation and other services as may be necessary for the Tribunal to carry out its functions and powers.

(9) A quorum for the Tribunal is 2 persons.

(10) Any report or determinations of the Tribunal shall all be unanimous.

(11) Where unanimity in the Report or determination of the Tribunal cannot be obtained the Tribunal shall so report, and no determination of the matter before it shall be published or delivered.

(12) The remuneration for the members of the Tribunal shall be such as the Beretitenti, acting in accordance with the advice of the Cabinet, may by order determine.

(13) The Beretitenti acting in accordance with the advice of Cabinet may appoint a second Tribunal with constitution and authority as set out in the preceding subsections, except that its Chairman shall be entitled the Associate Chairman.

(14) The Tribunal established under subsection (13) shall take on such duties, concerning grievances not otherwise heard by the Chairman, as the Chairman in consultation with the Associate Chairman shall direct.

Functions of the Tribunal

4. (1) The Tribunal shall -

(a) inquire into grievances arising out of error in the registration of plots of Native land in the Gilbert Group, during the period 1940 to 1980, where the grievance alleges that a person or that person's family antecedent was by the act or omission of any agency or entity, had incorrectly denied, deleted from or left off the registration of an ownership interest to a plot of land; and

(b) make a report of its determinations in this regard to the Government for publication.

(2) Where the Tribunal determines that the grievance is well founded, the Tribunal shall –

(a) set out the findings which support the determination;

(b) to the extent possible, identify the agency or entity of the Government that caused or committed the error; and

(c) describe the persons presently affected by the error and their circumstances.

(3) The Tribunal shall identify the grievance that concerns an intra family complaint; and where it is an intra family complaint falling within the first part of the definition thereof in section 2, the Tribunal shall not proceed to a hearing on the matter, or if a hearing has commenced, the Tribunal shall not issue a report thereon.

(4) In making its report under subsection (1)(b), the Tribunal shall not make any recommendation directly or indirectly suggesting that any person including the Government should transfer any property or expend any funds, unless that person, or the Government as the case may be, has specifically, in writing, consented to the Tribunal's so proceeding.

Powers of the Tribunal

5. (1) Where a person of I-Kiribati descent claims that he is materially affected by an error of the nature described in section 4 (1)(a), such person may either -

(a) by himself; or

(b) as a direct descendant of a family antecedent;

as the unwilling victim of that error, file a written grievance with the Tribunal.

(2) The Tribunal shall –

(a) subject to section 4, inquire into any such grievance; and

(b) issue a report and determination,

in regard to any such grievance that it considers appropriate for consideration under this Act.

(3) In addition to its powers under subsections (1) and (2), the Tribunal shall have a discretion to accept for consideration the grievance of a person complaining that another person wrongly questions his right to continued registration by virtue of the kind of error described in section 4(1)(a), notwithstanding that the other questioning person has not filed a grievance under this Act.

Application of the Commissions of Inquiry Ordinance

6. The following provisions of the Commissions of Inquiry Ordinance cap. 10 shall apply to the Tribunal established under this Act with such necessary changes as may be required to give those provisions their intended meaning in light of the provisions of this Act –

- (a) sections 4 and 5 as to the effect of death or illness of a member of the Tribunal;
- (b) section 6 as to oath of a member of the Tribunal;
- (c) section 7 as to appointment of a secretary to the Tribunal;
- (d) section 8 as to duties of the Tribunal members;
- (e) section 9 as to the division of opinion of members of the Tribunal;
- (f) section 10 as to rules of procedure;
- (g) section 11 as to powers of the Tribunal;
- (h) section 12 as to immunities of members of the Tribunal;
- (i) section 13 as to rights of interested parties;
- (j) section 14 as to witnesses;
- (k) section 16 as to remuneration of participants; and
- (l) section 17 as to proceedings for penalties.

Additional Resources to be Considered

7. (1) The Chairman of the Tribunal may produce a budget for approval of the Cabinet which may include funding to provide to the Tribunal the opportunity to appoint and direct investigators to prepare reports on the background circumstances of particular grievances.

(2) Where any such report is to be considered by the Tribunal the report shall be made available to any party withstanding in the relevant proceeding.

LAND REGISTRATION GRIEVANCE TRIBUNAL ACT BILL

EXPLANATORY MEMORANDUM

1. The purpose of this Act is to establish a Tribunal to hear outstanding complaints by direct descendants (defined section 2) of persons (family antecedents [see, clause 2] or ancestors) who were by mistake or fraud deleted from or denied entry on a land registry in the Gilbert Group (see section 4).

2. For some time citizens have complained that in the period 1940 to 1980 (see, section 4) through, either,

- (i) mistake of pre Independence Land Commissions; or
- (ii) through oversight to Registry officials; or
- (iii) through lies told to judicial authority; or
- (iv) through failure to give fair notice of land proceedings to all interested parties,

persons who should have been registered with an interest in land were overlooked. The descendants of these persons, who might have inherited the interest in land have complained that this injustice should be looked into.

3. It will be the function of the Tribunal to consider the grievance or complaint of these descendants. The Tribunal shall then report to the interested parties and to Government.

4. The Tribunal will have no power, without written consent, to make any award of land or money compensation to a successful griever (see section 4(3)). It will be for the Government to consider what should be done in the circumstances of each case. There may be cases where the report itself will be the only remedy available to the griever, particularly where the error was created by family members (ie. In an "intra family complaint", (see definition in section 2). It may be considered that in some cases it will be for the family itself to resolve the complaint.

5. No intra family complaint shall be entertained by the Tribunal if such complaint is brought to the Tribunal by a member of the antecedent family who is the fifth generation in descent line from such antecedent family.

6. The Tribunal will be made up of a Chairman, who shall be an experienced legally trained person (see section 3(3)), and such additional members from the community as the Government may decide. A second Tribunal could be established by the Cabinet should a need arise as to the timely and speedy resolution of the number of cases brought to the Tribunal to deal with (see section 3(13)). The Tribunal will be given the power to engage investigators to prepare preliminary reports and to gather together the necessary documents. This should speed up the hearing process and help to set out what facts are disputed. Such investigation reports will be delivered by the Tribunal to all interested parties, and the contents of the report will be subject to review by the Tribunal.

7. The Tribunal's decisions will only be published to the interested parties if the members of the Tribunal are unanimous.

Michael N Takabwe
Attorney General
9 November 2001