

REPUBLIC OF KIRIBATI  
(№ 5 of 2005)

I assent,

Beretitenti  
2005

**AN ACT TO AMEND THE *PROCEEDS OF CRIME ACT 2003*.**

Commencement:  
2005

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

**PART I—PRELIMINARY**

**1. Short title**

This Act may be cited as the *Proceeds of Crime (Amendment) Act 2005*.

**2. Definition of principal Act**

In this Act, ‘principal Act’ means the *Proceeds of Crime Act 2003*.

**PART II—AMENDMENT OF PART IV, DIVISION 1**

**3. Amendment of section 45(1)**

Section 45(1) of the principal Act is amended—

- (a) in paragraph (b), by inserting after “section 44;” the word “or”; and
- (b) inserting after paragraph (b) the following paragraph—
  - “(c) section 115B,”.

**4. Amendment of section 46(1)(a)**

Section 46(1)(a) of the principal Act is amended—

- (a) in sub-paragraph (ii), by repealing “and” and substituting the word “or”; and
- (b) inserting after sub-paragraph (ii) the following sub-paragraph—
  - “(iii) section 115B, and”.

**5. Amendment of section 47(1)(a)**

Section 47(1)(a) of the principal Act is amended—

- (a) in sub-paragraph (ii), by repealing “and” and substituting the word “or”; and

- (b) inserting after sub-paragraph (ii) the following sub-paragraph—  
“(iii) section 115B, and”.

**6. Amendment of section 48(1)(a)**

Section 48(1)(a) of the principal Act is amended—

- (a) in sub-paragraph (ii), by repealing “and” and substituting the word “or”; and  
(b) inserting after sub-paragraph (ii) the following sub-paragraph—  
“(iii) section 115B, and”.

**7. Amendment of section 49(1)(a)**

Section 49(1)(a) of the principal Act is amended by inserting after “Division” the words “or section 115B”.

**PART III—AMENDMENT OF PART VII**

**8. New section 115A**

Before section 116 of the principal Act, the following sections are inserted in Part VII—

**“115A. Currency reporting when leaving or entering Kiribati**

- (1) A person leaving or entering Kiribati with an amount of cash (in any currency) exceeding the equivalent of \$5000 (or such higher amount as may be prescribed by regulation for this section) shall, immediately before leaving or entering Kiribati, as the case may be, declare such amount in the prescribed form to an authorised officer stationed at the port of departure or arrival.
- (2) A person who fails to comply with subsection (1) commits an offence punishable by a fine of \$12,000 or imprisonment for two years, or both.
- (3) Authorised officers shall send all declarations made under subsection (1) to the Financial Intelligence Unit.

**115B. Search of person leaving or arriving in Kiribati**

- (1) Where a person is about to leave Kiribati or has arrived in Kiribati, or is about to board or leave, or has boarded or left, any ship or aircraft, an authorised officer may, with such assistance as is reasonable and necessary,—
- (a) examine any article which the person has with him or her, including any accompanied baggage; and
- (b) if the officer has reasonable grounds to suspect that an offence under section 115A may have been or is being committed, search the person, subject to subsection (2),
- for the purpose of finding out whether the person has with him or her or on him or her or in his or her clothing any cash in respect of which a declaration under section 115A(1) is required.
- (2) A person shall not be searched except by a person of the same sex.

- (3) An authorised officer, and any person assisting such officer, may board any ship or aircraft for the purposes of exercising the powers conferred by subsection (1).
- (4) Where an authorised officer has reasonable grounds to believe that cash found in the course of an examination or search conducted under subsection (1) may afford evidence as to the commission of an offence against section 115A, the officer may seize the cash.
- (5) Any cash seized under subsection (4) must be delivered forthwith into the custody of the Commissioner of Police.”.

**9. Amendment of section 116(a)**

Section 116(a) of the principal Act is amended by repealing “\$1000” and substituting the word “\$5000”.

**PROCEEDS OF CRIME (AMENDMENT) ACT 2005****EXPLANATORY MEMORANDUM**

The amendments introduced by this Act will require all persons leaving or entering Kiribati carrying more than \$5000 in cash (in any currency) to declare this to an authorised officer. In this way it is hoped that the authorities will be better able to keep track of the flow of cash into and out of the country. Those seeking to avoid tax by carrying their earnings out of the country by hand will be caught, as will those attempting to take out or bring in the proceeds of crime.

It will not be an offence to export or import cash in sums greater than \$5000. It will however be an offence to fail to make the required declaration. Authorised officers will have the power to search persons and their baggage. Failure to declare cash in their possession may result in seizure of the cash. A conviction for the offence of failing to make the declaration may result in forfeiture of the cash as tainted property.

Sections 3 to 7 make minor amendments to the 'search and seizure' provisions of the Act, to allow for cash seized in the course of a search to be dealt with appropriately. Section 116 will be amended by section 9 to bring it into line with the new section 115A.

Titabu Tabane  
Attorney-General  
2 May 2005

**CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU**

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 16 June 2005 and is found by me to be a true and correctly printed copy of the said Bill.

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Ioataake Timeon  
Clerk of the Maneaba ni Maungatabu

**CERTIFICATE OF THE SPEAKER OF THE MANEABA NI MAUNGATABU**

I certify that the above Bill was on 16 June 2005 passed by the Maneaba ni Maungatabu upon a Certificate of Urgency under section 68(3)(a) of the *Constitution*.

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Hon. Etera Teangana  
Speaker of the Maneaba ni Maungatabu

**Published by exhibition at the Maneaba ni Maungatabu this**

**day of \_\_\_\_\_, 2005.**

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Ioataake Timeon  
Clerk of the Maneaba ni Maungatabu