



FOREIGN INVESTMENT ACT 2018
(Section 31)

FOREIGN INVESTMENT REGULATION 2019
(No. 1 of 2019)

In exercise of the powers conferred upon me by Section 31 of the Foreign Investment Act 2018 and acting in accordance with the advice of the Cabinet, I hereby make the following Regulations.

Short Title

1. These Regulations may be cited as the Foreign Investment Regulations 2019.

Commencement

2. These Regulations shall come into force on the date appointed by the Minister by notice.

Interpretation

3. In these Regulations-

“Principal Act” means the Foreign Investment Act 2018.

Criteria and procedure for removing or adding to the Reserved and Restricted List

4. The criteria for removing or adding an activity to the Reserved List are set out in Schedule 1.
5. Any person may make a written submission (submission) to the Registrar for the removal or addition of an economic activity to the Reserved or Restricted List.
6. A submission made under Regulation (5) must consist of all relevant information, comprehensive data and all other supporting documents in their original form
7. After receiving a submission under Regulation 5, the Registrar will write to the person who made the submission to -
 - a) Acknowledge receipt of the submission;
 - b) Advise of the submission's preliminary assessment;
 - c) Request further supporting information if required; and

- d) Notify the person of how the Ministry will proceed further with its consideration of the submission.
8. In reviewing the submission, the Registrar must be satisfied that the person who made the submission satisfies at least two (2) of the criteria set out in Schedule 1 either for adding or removing an economic activity, whichever one applies.
 9. The Registrar may refuse to consider the application if the submission does not comply with Regulation 8.
 10. The Registrar must review the submission within 6 months from the date of receipt of the submission to consider the issues raised and where there is need for a further study to ascertain the claim in the submission.
 11. After reviewing the submission, the Registrar will provide recommendations to the Minister to allow or refuse the submission in amending the Restricted List and Reserved List in accordance with section 12 of the Principal Act.
 12. The Registrar must notify the person who made the submission of the outcome of the Minister's decision as soon as possible after it has been given.

Application for Foreign Investment.

13. Pursuant to section 14 of the Principal Act, any application for Foreign Investment approval shall be made in Form 1 of Schedule 2 accompanied by the prescribed fee.

Certificate of Registration

14. Pursuant to section 17 of the Principal Act, the certificate of registration shall be in the form prescribed in Form 2 of Schedule 2.

Forms

15. The forms set out in Schedule 2 shall be the prescribed forms for the purposes of these Regulations, and may be modified as directed by the Registrar.

Fees

16. The fees set out in Schedule 3 shall be the prescribed fees for the purposes of these Regulations.

Repeal

17. The Foreign Investment Regulation 1986 is hereby repealed.

SCHEDULE 1

CRITERIA FOR THE REMOVAL OR ADDITION OF AN ECONOMIC ACTIVITY TO THE RESTRICTED LIST OR RESERVED LIST

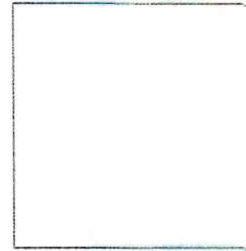
Criteria for Adding new activities to the List	Benchmark	Criteria for Removing Activities from the List	Benchmark
The economic activity is sufficiently taken care of by domestic investors and that an additional entries would render unprofitable returns to existing operators	At least 50% of existing businesses carrying out the same economic activity are locals	The economic activity is insufficiently taken care of by domestic investors and that additional entries would improve supply of service and creation of employment	At least 100 new job opportunities would be created Evidence of high level of skills and technology transfer that would result from additional business.
Availability and sufficiency of local capital investment to establish large scale commercial activities	Existing funds of at least -----or equivalent	Unavailability and insufficiency of local capital to establish large scale economic activities	Certified evidence of existing capital and funds to be injected into the economy from overseas
Local business operators can meet national development strategies objectives and less dependent on Government assistance	Evidence of improved contributions to employment creation at a consistent rate of 2% growth on a five year basis	Local businesses operators cannot meet national demand strategies objectives and are always reliant on government support	No evidence of any additional employment opportunities over a five (5) year basis; Less contribution to value adding efforts, including inconsistent tax contribution
When there is sufficient local suppliers of a particular activities/service and a healthy competition exist	At least 50% of existing businesses are carrying out the same economic activity in a competitive manner	When a local partner is monopolizing the market discouraging competition	Evidence that additional investor would be supplying the same product or services as provided in an approved Foreign Investment Certificate and valid business license.

SCHEDULE 2

Form No. 1	Application Form
Form No. 2	Certificate of Registration

FORM NO: 1

PART 1



REPUBLIC OF KIRIBATI
APPLICATION FORM
FOREIGN INVESTMENT REGISTRATION CERTIFICATE
 (Section 14 of the Foreign Investment Act 2018)

(Please read this Form carefully and ensure that you understand what is required to complete this Application Form)

(Note: Statements in *italics* are intended for general guidance only)

<u>PART</u> <u>A</u>	<u>FOREIGN INVESTOR INFORMATION</u>	<u>OFFICIAL</u> <u>USE</u>
<p><i>(A 'foreign investor', as defined by Section 3 of the Foreign Investment Act 2018 means:</i></p> <p>(a) a natural person who is not a citizen of Kiribati that has made or is seeking to make an investment into Kiribati; or</p> <p>(b) a company incorporated, registered or constituted in accordance with the laws of—</p> <p>(i) Kiribati; or</p> <p>(ii) any country other than Kiribati, that is not directly or indirectly owned or controlled by a citizen of Kiribati and that has made or is seeking to make an investment into Kiribati in terms of this Act)</p>		
I.	<p><u>Full Names (as in the Passport) and Current Address of all the Shareholders (please provide a Certified Copy of the Passport Bio-data Page for all the Names listed under this Section):</u></p>	
	<p>Full Name: Date of Birth (dd/mm/yyyy):</p>	

	Position (for example, Director and/or Shareholder):			
	Country of Citizenship:			
	Residential Address:			
	% of Shares:			
2.	Intended Address of the Project/Business Site:			
	<u>District name:</u>	<u>Village Name:</u>	<u>Island:</u>	
3.	Mailing Address in the Republic of Kiribati:			
	Postal number:.....			
	Village:			
	Island:.....			
	Authorized Contact Person:			
	Business Phone:		Fax:	
	Mobile:		Home Phone:	
	Email Address:			
4.	Mailing Address (Overseas):			
	Authorised Contact Person:			
	Business Phone:		Fax:	
	Mobile:		Home Phone:	
	Email Address:			
	<u>Postal Box/Lot Number:</u>	<u>Street Number and Name</u>	<u>Town/City:</u>	
5.	The Proposed Type of Business Entity of the Foreign Investor: <i>(For example, sole proprietorship, partnership, private company,</i>			

	<i>public company, etc.)</i>	
6.	<p>Are you involved in any other business enterprise/entity in the Republic of Kiribati or overseas?</p> <p>If yes, please provide the following details (wherever applicable):</p> <p><u>Name of Business:</u></p>	
	<p><u>Name(s) of Partner(s)/Shareholder(s):</u></p> <p><u>Business Activity:</u></p> <p><u>Foreign Investment Registration Certificate (FIRC) Number (if registered in the Republic of Kiribati):</u></p>	
7.	<p>Have you worked in the Republic of Kiribati before?</p> <p>If yes, please provide details of the <u>name</u>, <u>telephone contact</u> and <u>address</u> of the company worked in.</p>	
8.	<p>Has the foreign investor or any person associated with the foreign investor declared bankruptcy in the past or is currently undergoing bankruptcy proceedings, under the Laws of the Republic of Kiribati or any other country?</p> <p>If yes, please provide details.</p>	

9.	<p>Has any of the shareholder(s) or anyone associated with the business been convicted of any crime?</p> <p>If yes, please provide details.</p>	
<u>PART B</u>	<u>BUSINESS ACTIVITY INFORMATION</u>	
10.	Proposed Name of the Business Enterprise/Entity:	
11.	Nature of Business:	
	<u>Description of Business:</u>	
<i>Please refer to section 9 of Foreign Investment Act for information on Reserved Activities</i>		
12.	<p>Is any of the business activity to be undertaken a Restricted Activity under section 9 and 10 of the Foreign Investment Act 2018?</p> <p>If yes, please provide details.</p>	

13.	<p>Please provide the following:</p> <p>Authorised Capital (Australian dollars):\$ _____</p> <table border="0" style="width: 100%;"> <tr> <td style="text-align: center;"><u>LOCAL</u></td> <td style="text-align: center;"><u>FOREIGN</u></td> </tr> <tr> <td colspan="2">Issued Capital:</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td colspan="2">Paid-up Capital:</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td colspan="2"><i>(For companies)</i></td> </tr> <tr> <td colspan="2">Loans:</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td colspan="2">Owner's Contribution:</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td colspan="2"><i>(Other than companies)</i></td> </tr> </table>	<u>LOCAL</u>	<u>FOREIGN</u>	Issued Capital:		_____	_____	Paid-up Capital:		_____	_____	<i>(For companies)</i>		Loans:		_____	_____	Owner's Contribution:		_____	_____	<i>(Other than companies)</i>		
<u>LOCAL</u>	<u>FOREIGN</u>																							
Issued Capital:																								
_____	_____																							
Paid-up Capital:																								
_____	_____																							
<i>(For companies)</i>																								
Loans:																								
_____	_____																							
Owner's Contribution:																								
_____	_____																							
<i>(Other than companies)</i>																								
14.	<p><u>Proposed level of total investment:</u></p> <table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th><u>YEAR 1 (AUD\$)</u></th> <th><u>YEAR 2 (AUD\$)</u></th> <th><u>YEAR 3 (AUD\$)</u></th> </tr> </thead> <tbody> <tr> <td style="height: 40px;"> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p>Proposed level of employment:</p> <table border="0" style="width: 100%;"> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td style="text-align: center;">(Kiribati Citizens)</td> <td style="text-align: center;">(Foreign Citizens)</td> </tr> </table> <p><i>Work Permits shall be issued to foreign investors in accordance with the Immigration Ordinance</i></p>	<u>YEAR 1 (AUD\$)</u>	<u>YEAR 2 (AUD\$)</u>	<u>YEAR 3 (AUD\$)</u>				_____	_____	(Kiribati Citizens)	(Foreign Citizens)													
<u>YEAR 1 (AUD\$)</u>	<u>YEAR 2 (AUD\$)</u>	<u>YEAR 3 (AUD\$)</u>																						
_____	_____																							
(Kiribati Citizens)	(Foreign Citizens)																							
15.	Please identify the sources of funding for both, foreign and local partner(s)/shareholder(s):																							
16.	Additional Important Information and Requirements for Applicants (to be provided with this Application).																							

	<ol style="list-style-type: none"> 1. Investors are encouraged to reserve their business name with the Registrar of Companies prior to being registered with the Investment Promotion Division. 2. If a company is being listed as a Shareholder, then the name(s) of those associated with that Shareholding Company must be provided to the Investment Promotion Division. 3. A Certified Copy of the Passport Bio-data Page, together with a recent coloured passport size photo, of all those associated with the business must be provided. 4. Business Plan 5. The Police Clearance Report from the country where you have been residing in the last 12 months or more is to be provided. 6. Proof of company registration from abroad (if applicable) is to be provided. 7. Bank Reference/Referees. 	
--	--	--

DECLARATION

I/We, the undersigned, being duly authorised by the foreign investor, hereby declare that the information contained in this Application is correct and complete, and I/We authorise the Investment Promotion Division to make all the necessary enquiries and to conduct all the necessary checks in relation to this Application.

Name(s): _____

Position(s): _____

Signed at: _____ this _____ day of _____ (year)

Signature(s): _____

Company Seal (if applicable): _____

When filed in hard copy, only fully completed, original and signed Application Forms, together with the full payment of the non-refundable Application Fee will be processed by the Investment Promotion Division.

Official Use

1. Does the foreign investor qualify for a Foreign Investment Registration Certificate (FIRC)?

YES

NO

If not, why?

Signature: _____
Registrar

Date: _____

2. **DECISION:**

Grant

Refuse

Signature: _____
Secretary

Date: _____

FORM NO: 2

REPUBLIC OF KIRIBATI



FOREIGN INVESTMENT ACT 2018
FOREIGN INVESTMENT REGULATIONS 2019

Certificate No:.....

CERTIFICATE OF REGISTRATION

This Certificate is hereby granted to: -

Name of Enterprise	
Nature of Activity	
Address of Enterprise in Kiribati	
Registration Number of Enterprise	
By virtue of this Certificate	
The Validity of this Certificate	
And is issued subject to the conditions specified below. A breach of any or all of these conditions may result in the withdrawal of the licence.	

Dated:.....

Signed:.....

Secretary
Ministry of Commerce, Industry and
Cooperatives.

CONDITIONS OF REGISTRATION

	CONDITIONS OF REGISTRATION
1.	An Enterprise shall comply with all laws of Kiribati pursuant to section 21 of the Foreign Investment Act 2018.
2.	The Enterprise shall submit yearly financial statement to Registrar within 60 days after the end of its financial year.
3.	The Enterprise shall submit bi-annual progress reports to Registrar.
4.	The Enterprise shall not deviate from the type nature and scope of business for which approval was granted.
5.	The Enterprise shall employ more locals than foreigners and train them (24 minimum number of local employees in the business must be consistent and aligned with the application and with gradual increases over the years).
6.	The Enterprise shall register at the Tax, MFED for registration of Tax and VAT.
7.	The Enterprise shall comply with the conditions of the Foreign Investment License and certificate.
8.	The Enterprise shall comply with health, fisheries, marine and environmental conditions as may be required from time to time by relevant authorities.
9.	Investors from Overseas shall apply for work permit and renewal according to the Immigration law.
10.	Investors (owners and shareholders) shall register their businesses with the Business and Company Registration units at MCIC before their business operation.
11.	The Enterprise shall comply with any other conditions as prescribed by Registrar From time to time.
12.	The Certificate is not transferable.

SCHEDULE 3

FEES

<i>No:</i>	<i>Description of Fee- Application register as Foreign Investment</i>	<i>Amount of Fee</i>
1	Share capital or other capital up to A\$25,000	\$500
2	Share capital or other capital above A\$25,000 to A\$250,000	\$1,000
3	Share capital or other capital above A\$250,000	\$1,500



REPUBLIC OF KIRIBATI
FOREIGN INVESTMENT REGULATION 2019
(SECTION 2)

NOTICE OF COMMENCEMENT DATE

IN EXERCISE of the powers conferred upon me by section 2 of the Foreign Investment Regulation 2019, I hereby appoint the 4th day of **November** to be the date on which the Regulation shall come into force.

Dated thest day of November 2019



HONOURABLE ATARAKE NATAARA
Minister for Commerce, Industry and Cooperatives

Published by exhibition at the Public Office of the Beretitenti thisst day of
November 2019



DR NAOMI BIRIBO
Secretary to Cabinet