

Immigration Procedures

Certified under the Immigration Act 2019

Kiribati Ministry of Foreign Affairs and Immigration

Version 1

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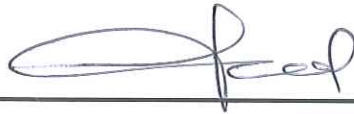
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This manual is certified under section 16 of the Immigration Act 2019 by:



Mr. Michael Sarbane Foon

Secretary for Foreign Affairs & Immigration

29 April 2020

Immigration Procedures

This manual has been created in accordance with the Immigration Act 2019 to assist Kiribati immigration officers and other officials, such as police officers, who may carry out immigration functions.

It is intended to be used as both a reference manual and an aid for training new officers.

The procedures outlined in this manual are verified by the Secretary of Foreign Affairs and Immigration, as required by section 16 of the Immigration Act 2019.

Using this manual

These procedures are divided into 20 sections, consisting of:

- Core principles – the fundamental parts of immigration and decision making
- Temporary visas – detail about visitor, work, student, investor, religious worker, military and consular visas, transit and interim visas
- Residence visas – criteria and process for granting a visa
- Border processes – granting entry permission and passenger requirements
- Carrier responsibilities – requirements for travelling to and leaving Kiribati
- Compliance – entry and search powers for immigration officers
- Protection issues – relating to refugee claimants, trafficked and stranded persons
- Deportation – deportation liability notices and deportation orders
- Review and appeal – Court functions and review processes
- Detention – procedures for detaining non-citizens and warrants of commitment
- Minors – rules for dealing with people under 18 years
- Offences and prosecutions – listing the offences under the Immigration Act.

This manual has not been designed to be read from cover to cover. It is intended to be kept nearby and dipped into when the officer wants to check a procedure or needs reassurance that they are taking the correct action.

It is also intended as a training resource to help officers learn and understand their role.

In using this manual, immigration officers need to continue to exercise their judgement, assess risk and where appropriate seek advice from senior officers.

A. Core principles

A. Core principles

1. Decision making

Every day immigration officers make decisions about someone's immigration status.

All immigration officers must act on the principles of fairness and natural justice when deciding an application. This means that officers need to give the person a fair hearing and avoid bias in their decisions.

An important part of decision making is to let the person know the reasons for the decision. The Immigration Act requires immigration officers to do this.

2. Travel documents

See section 4 Immigration Act

You may see a range of travel documents in your work, including:

- Passports
- Certificate of identity – including United Nations laissez-passers, refugee travel documents, diplomatic passports, and Seafarers' Identity Document.

Acceptable travel documents must be:

- a. authentic and not unofficially altered or tampered with
- b. not damaged in a way that compromises the integrity of the document
- c. valid in the country of issue
- d. issued by an official source recognised by the Kiribati Government
- e. valid for travel to and from Kiribati
- f. in the case of people coming to Kiribati temporarily, valid either for at least 6 months beyond the date they intend to depart.

3. Visas

See section 25 Immigration Act

A visa authorises the holder to travel to or stay in Kiribati (or both).

A visa granted **outside** Kiribati means that the holder may travel to Kiribati in line with the conditions of the visa and apply for entry permission at the border. If entry permission is granted, the holder may stay in Kiribati in line with the conditions of the visa.

A visa granted **inside** Kiribati means that the holder may stay in Kiribati in accordance with the conditions of the visa. If the holder is granted travel conditions, the holder may re-enter Kiribati and apply for entry permission.

A visa granted in an **immigration control area** means that the holder may stay in Kiribati in accordance with the conditions of the visa, and if granted travel conditions, the holder may re-enter Kiribati and apply for entry permission.

A visa is granted by being entered in the records of the Ministry of Foreign Affairs and Immigration. Once a visa is granted, it can be shown by a stamp or endorsement in a passport or on a certificate of identity.

4. Status of people lodging an application for a visa

Lodging an application for a visa does not:

- a. make the person's presence in Kiribati lawful
- b. give the person the right to remain in Kiribati while the application is being considered
- c. give the person the right to apply for or be granted any other visa while the application is considered
- d. prevent any deportation procedures under the Immigration Act that may apply to the person.

Despite (a) above, an interim visa may be granted to maintain the lawful status of a visa holder who has applied for a further visa.

5. Entry permission

See section 28 Immigration Act

The grant of entry permission has no effect unless the person also holds a visa. A person arriving in Kiribati from a visa waiver country must apply for both a visa and entry permission on arrival.

Some people, however, will be deemed to hold a visa and entry permission. This includes aircraft crew and visiting military personnel. They will not need to apply for a visa or entry permission. The list of applicable people is set out in the Immigration Visa and Entry Permission Regulations.

The grant of a visa does not alone entitle the holder to be granted entry permission. The exception to this is a Kiribati resident visa holder.

If a person is refused entry permission, any visa that they hold is cancelled and the person is liable for turnaround.

6. Health criteria

All applicants for visas must have an acceptable standard of health.

A person has an acceptable standard of health if they are:

- a. unlikely to be a danger to public health
- b. unlikely to impose costs or demands on Kiribati's health services, and
- c. able to undertake the work or study that is the reason why they are applying for a visa.

An assessment of an acceptable standard of health should consider the intended length of stay in Kiribati.

7. Character

Applicants for visas must be of good character and not pose a potential security risk.

If any person included in an application fails to meet the necessary character requirements, the application may be declined.

If required, applicants aged 17 and over applying for a temporary entry visa must obtain a police or similar certificate from:

- a. their country of citizenship, and
- b. any country in which they have lived for 5 years or more since turning 17 years.

Police certificates

All police certificates must be less than 6 months old at the time an application is lodged.

The applicant is responsible for meeting all the costs of obtaining a police certificate.

Some countries do not issue police certificates, or sometimes certificates are very difficult to obtain. In these situations, the Director of Immigration must be satisfied that the police certificate is not available or unduly difficult to obtain from the particular country. The Director can request that the applicant provide a statutory declaration that:

- a. details the applicant's attempts to obtain a police certificate and
- b. states whether the applicant and any accompanying family members have ever been convicted or found guilty or charged with offences against the law of their country; or have not been charged with any offences against the law of that country.

8. Excluded persons

See sections 9 and 10 Immigration Act

Any person described in section 9 or 10 of the Immigration Act must not be granted a visa or entry permission, and their application will be declined.

The only exceptions are if a special direction has been granted authorising the grant of a visa or entry permission.

The following are not eligible for visa or entry permission to enter or be in Kiribati; any person who:

- a. at any time has been convicted of any offence for which that person has been sentenced to imprisonment for a term of 5 years or more
- b. at any time within the preceding 10 years, has been convicted of any offence for which that person has been sentenced to imprisonment for a term of 12 months or more
- c. has been banned from returning to Kiribati under the Immigration Act
- d. the Minister has reason to believe is:
 - i. likely to commit an offence in Kiribati that is punishable by imprisonment
 - ii. is or is likely to be a threat or risk to security
 - iii. is or is likely to be a threat or risk to public order, or
 - iv. is or is likely to be a threat or risk to public interest.

Sentences and imprisonment

Paragraphs (a) and (b) above apply whether the sentence is of immediate effect or suspended; and where a person has been convicted of two or more offences on the same occasion or in the same proceedings, and the imprisonment imposed is cumulative.

Threat or risk to security

See section 4 Immigration Act

When considering a risk to threat or risk to security, 'security' means:

- a. the defence of Kiribati;
- b. the protection of Kiribati from acts of espionage, sabotage, and subversion, whether or not they are directed from or intended to be committed in Kiribati;
- c. the identification of foreign capabilities, intentions, or activities in or relating to Kiribati that affect adversely Kiribati's international well-being, reputation, or economic well-being;
- d. the protection of Kiribati from activities in or relating to Kiribati that
 - i. are influenced by any foreign organisation or any foreign person; and
 - ii. are clandestine or deceptive, or threaten the safety of any person; and
 - iii. affect adversely Kiribati's international well-being, reputation, or economic well-being;

- e. the prevention of any terrorist act and of any activity relating to the carrying out or facilitating of any terrorist act;
- f. the prevention, investigation, and detection of organised crime, including transnational organised crime; and

In an international context, 'security' also includes the safety and stability of the international community, through co-operative measures such as international conventions and other arrangements or agreements between countries.

International reputation

Applicants will not normally be granted a temporary entry visa where the applicant would pose a risk to Kiribati's international reputation.

This means that they might have an association with, membership of, or involvement with any government, regime, group or agency that has advocated or committed war crimes, crimes against humanity or other gross human rights abuses.

9. Special directions

See section 62 Immigration Act and regulation 30 Immigration (Visa and Entry Permission) Regulations

The Minister may give the Secretary or any other immigration officer a special direction in relation to any matter under the Immigration Act or regulations. Special directions are made with the absolute discretion of the Minister.

Special directions may be made in regard to any:

- a. person, visa, or document
- b. any 2 or more persons, visa, or documents where there is a common link between those persons, visas, or documents. A common link might be related to a specific event, occurrence, or unusual circumstance.

A special direction may be made orally but a written record must then be made as soon as possible.

A special direction comes into force on the day on which it is made and may be subject to such conditions as the Minister thinks fit. Special directions are revoked or amended by a new special direction.

Immigration officers must act in accordance with the special direction.

9. Data collection

Collecting, recording and updating data allows analysis which can enable evidence-based policymaking, improve management and operational decisions and enable intelligence-led targeting.

Immigration collects data from arrival forms, departure cards, investigations and passport and visa applications.

Data from arrival forms is manually recorded in a Microsoft Access database. Data from departure cards is added to the Microsoft Access database. Information from enforcement and compliance investigations and border incidents is recorded in a specifically designed Excel spreadsheet.

Passport application and issuance data is recorded in a register and in an electronic database. Data from visa applications and issuance is recorded in an electronic database.

Analysis and reporting

Monthly reports are provided from each of the databases.

Data is provided annually to the Pacific Immigration Development Community (PIDC) in response to the PIDC Annual Collection Plan.

10. Information sharing

See Information Sharing Regulations

Sharing information is an important part of intelligence gathering and investigation. There are currently no restrictions on the information Kiribati Immigration can share with other government agencies.

Immigration meets with other Kiribati law enforcement agencies to discuss priorities and share information in a Combined Law Agency Group (CLAG) once a month. At other times Immigration shares information with other agencies upon request and can call a meeting of the CLAG if required.

Information is provided to the PIDC Immigration Intelligence Bulletin as appropriate.

When releasing information overseas, consider the following steps:

- a. identify the agency, body or person that is to receive the information
- b. identify the information to be disclosed
- c. is there an existing agreement with this agency, body or person? Does it apply in the circumstances?
- d. if no agreement applies, consider whether an agreement should be developed
- e. if the information is to be disclosed on a 'one-off' basis, check that the disclosure is carried out strictly in accordance with the requirements of regulations.

11. Applications

See Immigration Visa and Entry Permission regulations

A passport, certificate of identity, birth certificate or other document provided as evidence of identity must be either the original or a certified copy

The exception is where these documents are provided in support of an application made:

- a. on an electronic form
- b. by a diplomatic or consular official for a temporary visa
- c. for reconsideration of a decision to decline a further temporary visa.

Documents with evidence of having been tampered with, or unofficially altered, must be referred to the Director of Immigration, who will decide what further action to take.

Where uncertified copies of original documents have been provided, an immigration officer may request to see the original documents before making a decision on the application.

12. Decision makers

See sections 63 and 67 Immigration Act

An immigration officer is the Secretary of Foreign Affairs and Immigration, and every person who has been designated by the Secretary as an immigration officer.

To make immigration decisions under the Immigration Act, a person must be designated as an immigration officer. The Secretary must specify which powers and functions an immigration officer is authorised to perform under the Act.

Sometimes, the Minister may delegate some of his or her powers under the Immigration Act to immigration officers. Some delegations may be for all officers, or for specific officers to do specific roles.

A person who has not been designated as an immigration officer cannot make immigration decisions.

13. Process for becoming an immigration officer

See section 67 Immigration Act

To be designated as an immigration officer a person must:

- a. complete a training schedule
- b. demonstrate competence in a number of specified areas
- c. be deemed competent to carry out the functions of an immigration officer.

However, the Secretary may otherwise designate an individual as an immigration officer if he or she sees fit.

The Director should make a request to the Secretary that a person be designated as an immigration officer where the Director is satisfied that the person has completed the training and is deemed competent.

If the Secretary decides to designate the person as an immigration officer, the person will be issued with a warrant of designation that specifies which powers the officer may exercise. The warrant of designation continues in force until it is revoked.

14. Functions and powers of an immigration officer

An immigration officer may be authorised to exercise functions and powers such as:

- a. visa decision-making
- b. entry permission decision-making
- c. compliance and enforcement
- d. the power of detention.

15. Warrant of designation

A warrant of designation will be issued to immigration officers and specifies which powers they may exercise, including powers of detention, entry and inspection, deportation and decision-making.

Whenever an immigration officer (including a police constable exercising the powers of an immigration officer) seeks to enter any premises, building or craft in the course of exercising a power, or exercises a power of detention, the officer must produce their warrant and state which provision of the Immigration Act they are acting under.

An immigration officer must also produce their warrant when they orally make a request for information or documents, if the person asks the immigration officer for it.

A constable may produce his or her police badge or other identification instead of the immigration officer's warrant.

The warrant must be:

- a. stored in a secure place when not in use
- b. used only by the officer to whom it is issued
- c. produced in circumstances where production is required (as above)
- d. returned to the Secretary when the officer leaves the Ministry.

16. Kiribati citizens

See section 7 Immigration Act

Every Kiribati citizen has the right to enter and be in Kiribati at any time.

However, to establish his or her right to enter Kiribati, a Kiribati citizen must prove their citizenship and establish their identity by providing relevant documents and complying with border requirements.

Kiribati citizens are not liable for deportation from Kiribati in any circumstances.

17. Automated electronic decision-making

See section 20-22 Immigration Act

Kiribati does not yet have the ability to make automatic immigration decisions, but the Immigration Act allows for this to happen in the future.

Automated decision making applies immigration criteria to grant visas and entry permission. In particular, it can be used with electronic passports to enable citizens to enter the country without going through the passport desk.

18. Biometric information

See section 23 and 24 Immigration Act

The Immigration Act also allows for biometric information to be collected to make immigration decision. Biometric information, in relation to a person, means:

- a. a photograph of all or part of a person's head and shoulders
- b. the person's fingerprints
- c. an iris scan.

Biometric information may be used to establish a record of a person's identity or verify a person's identity and make decisions under the Immigration Act.

Biometric information in the form of photos is normally required from all visa applicants, applicants for entry permission, non-citizens leaving Kiribati, people liable for deportation or turnaround and people applying for entry permission at the border being interviewed by an immigration officer.

If a person fails to allow for biometric information to be collected when applying for a visa, an immigration officer may refuse to grant the visa or revoke the visa they already have.

Fingerprints will not normally be required from persons under 14 years of age.

19. Grant of a visa by Minister using absolute discretion

See section 38 Immigration Act

The Minister may, at any time, grant any type of visa to a person who is:

- a. unlawfully in Kiribati, and
- b. not a person in respect of whom a deportation order is in force.

The grant of a visa under section 38 is a matter of absolute discretion. No person has the right to apply for a visa under this section and if a person tries to make such an application, the Minister or delegated immigration officer is not obliged to consider the request.

The Minister or delegated immigration officer have no obligation to give reasons for any decision to grant a visa by absolute discretion.

If an immigration officer decides that there are grounds to consider the request based on evidence provided by the requester, he or she should consider the request.

When a request has been considered, immigration officers should briefly record, on the physical and electronic file, their reasons for the decision. If the request is approved to grant a visa, the type and duration of the visa should be stated.

Unlike an ordinary application, the reasons for the decision need not be recorded in communication with the client. That, however, is a matter for the officer concerned. If the officer decides not to give reasons to the requester, he or she must record that section 38 of the Immigration Act applies.

20. Complaints about Ministry staff

When a member of the public is unhappy with the service they have received or the way they have been treated, complaints should be taken seriously and responded to quickly, openly and appropriately. The procedure should be displayed clearly in the public area of the immigration office.

A person wishing to make a formal complaint should be asked to provide the complaint in writing addressed to the Secretary. Alternatively, a member of staff should make a record of a complaint in the presence of the person making the complaint.

If the complaint refers to a specific immigration officer, that immigration officer should not be involved in receiving or recording the complaint.

The Secretary or delegated senior official should consider the complaint according to the Civil Service Code of Conduct and any other applicable code. In serious cases the Secretary may be required to refer the complaint to the Public Services Commission.

It is recommended that complaints be responded to within 2 weeks. A formal letter should be provided to the person who made the complaint with an appropriate response and explaining the action that will be taken as a result of the complaint as well as who to contact if they wish to pursue their complaint further.

21. Security requirements

If passports and visa stamps are not kept secure, they could be stolen and/or used to create fraudulent documents and permissions. People's personal details are kept on record within the immigration office and this information should be kept secure to prevent access to it by unauthorised people.

Passports: The Passport Officer ensures that blank passports as well as newly issued passports are stored in a locked and secure cupboard or safe. The Passport Officer should ensure that applications are kept in a secure location and ideally passports should be processed in a secure location.

Visa stamps: Stamps in the office and at the airport should be kept in a locked and secure cupboard or safe when not in use. When in use stamps should be kept within sight of the officer using them and not left in public view or within easy public access. When returning stamps to a secure place after use, officers should check to make sure all stamps are present.

Personal records and applications: All records or applications containing personal details should be filed in lockable cabinets and/or in premises or areas that are not accessible by members of the public. Records that are no longer required should be disposed of appropriately including, for example, by being shredded.

Security marked documents: Documents are security marked by the Registry Clerk. Documents with a security marking should be handled as required by the marking.

Building security: Members of the public should be kept to a designated area, except when being interviewed or for other specific purposes. The immigration office is locked and opened by the office cleaner.

22. Agency relationships

Immigration maintains several relationships with other agencies and organisations that are important for its work.

Within Government, Immigration works with:

- a. Police/marine guard
- b. Customs
- c. Fisheries
- d. Overseas diplomatic missions
- e. Civil Aviation Authority
- f. Statistics
- g. Quarantine
- h. Other Ministries as required (e.g. for State visits).

Outside Government, Immigration works with:

- a. Shipping agencies
- b. Airlines
- c. Airport services
- d. Port services
- e. High Commissions and Embassies.

Regionally and internationally, Immigration works with:

- a. Immigration departments in the region as required
- b. Pacific Immigration Development Community (PIDC)
- c. United Nations High Commissioner for Refugees (UNHCR)
- d. International Organization for Migration (IOM).

B. Temporary Entry Visas: General Requirements

B. Temporary Entry Visas: General Requirements

1. Visa waivers

See section 45 Immigration Act. See also Schedule 1 Immigration (Visa and Entry Permission) Regulations

A visa waiver means a waiver of the requirement to hold a visa permitting travel to Kiribati in relation to any class of persons.

A visa waiver applies to the following people:

- a. people granted a visa waiver by special direction
- b. people travelling on a United Nations (UN) laissez-passer who are seeking a visitor visa current for not more than three months
- c. any other class of persons specified in immigration regulations
- d. citizens of countries listed in immigration regulations.

2. Who needs a visa to travel to Kiribati?

See section 8 Immigration Act

A person who is not a Kiribati citizen may travel to Kiribati only if the person is:

- a. the holder of a visa and the travel is consistent with the visa conditions
- b. a person to whom a visa waiver applies.

A person who is not a Kiribati citizen may enter and be in Kiribati only if the person is the holder of a visa and has been granted entry permission.

The fact that a person onshore has made an application for a visa does not:

- a. make the person's presence in Kiribati lawful
- b. give a right to remain in Kiribati while the application is considered
- c. give a right to apply for any other visa while the application is considered
- d. mean the person cannot be deported.

3. Who may not apply for a temporary visa to be in Kiribati?

See section 52 Immigration Act

- a. person who is unlawfully in Kiribati may not apply for a temporary visa
- b. a limited visa holder, interim visa holder, or transit visa holder may not apply for a temporary visa
- c. a person liable for deportation may only apply for a visa of the same class and type that he or she held before becoming liable for deportation
- d. the Minister, in his or her absolute discretion, may grant a temporary visa to a person prohibited from applying for a temporary visa.

4. Visa requirements

Temporary entry visas with travel conditions may not be granted unless the applicant's passport is valid for at least 3 months beyond the expiry date of the proposed visa.

The entry for the visa must specify, as appropriate:

- a. the start date (upon arrival)
- b. any conditions of the visa that relate to travel, including whether the visa allows travel to Kiribati on a later occasion, or whether the visa gives permission to travel to Kiribati on a single journey or multiple journeys
- c. in relation to stay in Kiribati, the date or event on which the visa will expire
- d. any other conditions of the visa
- e. dates entry permission was granted.

If the visa holder is in Kiribati, the visa expires on the earliest of:

- a. the beginning of the day after the date that is the expiry date, or
- b. the beginning of the day after the day the event specified on the visa occurs.

If the holder of the visa is outside Kiribati, the visa expires on the day and time the holder left Kiribati, if the visa conditions do not allow further travel to Kiribati.

5. Temporary visa conditions

See section 51 Immigration Act

The holder of a temporary entry class visa may:

- a. visit Kiribati consistent with the conditions of the visa, for any lawful purpose
- b. work in Kiribati, only if the conditions of the visa allow
- c. study in Kiribati, only if the conditions of the visa allow
- d. undertake the express purpose for which they were approved to travel to Kiribati, if granted a limited visa
- e. if granted an interim visa, work, study or visit only as authorised by the terms or conditions of their interim visa.

Subject to any special direction to the contrary, every visitor, work and interim and limited visa is subject to the following conditions:

- a. at all times during the currency of the visa to be in Kiribati, the holder has sufficient funds available for the holder's maintenance in Kiribati, or a current approved sponsorship
- b. at all times during the currency of the visa to be in Kiribati, the holder has the means to travel to a country to which the holder has a right of entry or a current approved sponsorship.

6. Variation of conditions for temporary entry

See section 31 *Immigration Act*

An immigration officer may:

- a. impose conditions in addition to those specified in procedures for the visa type
- b. vary or waive conditions that would otherwise apply to that type of visa.

The immigration officer must notify the visa holder in writing of any conditions that are imposed, varied or waived and the date any change will occur.

Holders of temporary entry visas should apply for a variation of their conditions if they:

- a. wish to work and do not have a Kiribati work visa
- b. hold a work or visitor visa and wish to study in Kiribati for longer than 3 months
- c. hold a work visa with limited conditions and wish to change employers or place of employment.

Immigration officers may grant a variation of conditions if the applicant completes an application and produces:

- a. the appropriate fee
- b. a valid passport or travel document
- c. documents such as an offer of employment, offer of education or other documents requested by the immigration officer.

7. Cancellation of visas

See section 41 Immigration Act

A visa can be cancelled at the following times:

- a. when the holder is deported from Kiribati
- b. the day after a deportation order is served on a person
- c. when the holder is refused entry permission
- d. if the holder did not present themselves to an immigration officer in an immigration control area, or within the set timeframe
- e. on the start day of a further visa granted to its holder
- f. on the grant of Kiribati citizenship to its holder.

Administrative error

Cancellation for administrative error can occur while the person is still in the immigration control area, or if the person has not been told that the visa was granted.

Examples of administrative error include if the visa was granted:

- a. to a Kiribati citizen
- b. to an excluded person
- c. instead of another type of visa
- d. with the wrong time period
- e. in contradiction with a special direction or immigration procedures.

If an immigration officer decides that the visa was granted in administrative error, but it was not cancelled in accordance with the Immigration Act, the immigration officer may offer the holder a visa with conditions as considered appropriate by the immigration officer. If the holder does not agree, he or she remains liable for deportation.

Cancellation for sufficient cause

See section 42 Immigration Act

If an immigration officer thinks there is a sufficient reason, they may:

- a. cancel a temporary visa at any time while its holder is outside Kiribati
- b. cancel a transit visa at any time.

The person must be notified in writing if a visa is cancelled while the person is outside Kiribati.

'Sufficient reason' includes:

- a. breach of conditions of the person's visa
- b. criminal offending
- c. other matters relating to character
- d. concealing relevant information in a visa application
- e. where the person's circumstances no longer meet the criteria for the visa they hold.

8. Who may be included in a visa application?

See regulation 13 of Immigration (Visa and Entry Permission) Regulations

Each principal applicant must lodge a separate application.

The partner of a principal applicant and dependent children less than 20 years old may be included in an application for a visitor visa, limited visa or transit visa if they are all travelling together.

Partners and dependent children of work, student, diplomatic or military visa applicants must lodge a separate application for the temporary visa that is appropriate for their needs. For example, a dependent child of a work visa applicant should apply for a student visa if they intend to go to school in Kiribati.

'Children of principal applicant' means biological or adopted children of the principal applicant or their partner.

'Dependent child' means:

- a. If they are under 18 years old and single, and totally reliant on the principal applicant or the principal applicant's partner for financial support, whether living with them or not
- b. If they are 18 or 19 years old and single with no children of their own, and are totally reliant on the principal applicant or principal applicant's partner for financial support, whether living with them or not. Evidence of dependence may be required for this group.

Evidence required to show the relationship of the child to the principal applicant includes an original birth certificate, adoption papers or a declaration by the parents (in the case of customary adoption).

'Partner' means a person who is legally married to the principal applicant, or a person in a genuine and stable relationship with the principal applicant.

Evidence required to show the relationship includes evidence that demonstrates they are living together in a genuine and stable relationship. A relationship can be genuine if it is entered into with the intention of being long-term and exclusive and is stable because it is likely to endure.

9. Lodging visa applications

A paper application is lodged on the date it is received at the Immigration office.

An electronic application is lodged on the date that it is successfully submitted.

If the application does not include the correct information or documentation, the application is lodged on the date that the Ministry receives all required documents.

Application forms must be stamped with the date on which they are lodged.

If an application is not lodged in the prescribed manner the Ministry has no obligation to hold the application. If the application is incomplete but easily corrected, the immigration officer may:

- a. receive the application and fee
- b. hold the application
- c. advise the applicant that the application has not been made in the correct manner with information or documents outstanding
- d. give the applicant a specific time to provide all the outstanding information or documents, and
- e. return the application and refund any fee if the applicant fails to meet the timeframe required.

10. Mandatory requirements for applications

See regulation 4 Immigration (Visa and Entry Permission) Regulations

Applications lodged for a temporary visa must be made on the relevant application form that is fully completed.

The application must be submitted to an immigration officer together with:

- a. The applicant's passport or certificate of identity or, if that is unavailable, his or her original birth certificate or other identity document (certified copies are acceptable)
- b. a passport-sized photograph of the applicant's head and shoulders
- c. the appropriate fee
- d. evidence of sufficient funds for maintenance in Kiribati or evidence of sponsorship
- e. information and evidence as is required for the visa type being applied for
- f. any other information, evidence and submissions the applicant considers show that he or she is eligible to be granted the visa.

Applications must be signed by the applicant, unless the applicant is less than 18 years old, in which case it must be signed by a parent or guardian.

Before completing the application, the immigration officer processing the application may require the applicant to:

- a. be interviewed by an immigration officer
- b. produce further information or evidence
- c. undergo a medical examination
- d. produce travel tickets to a country the person has a right of entry to, or evidence of onward travel arrangements
- e. produce evidence of sufficient funds for maintenance while in Kiribati, or evidence of sponsorship.

Everyone who applies for a visa or entry permission must specify in their application a physical address in Kiribati to which any communication relating to the visa may be made, or any notice under the Immigration Act may be served.

Evidence of sufficient funds includes but is not limited to:

- a. cash
- b. travellers' cheques
- c. bank drafts
- d. recognised credit cards with sufficient credit available
- e. for group visas, certification from a reputable travel agency.

11. Obligation to inform of all relevant facts

See section 68 Immigration Act

It is the responsibility of the applicant to ensure that all information, evidence and submissions that the applicant wishes to have considered in support of the application are provided when the application is made.

The immigration officer is not obliged to seek any further information and can decide the application on the basis of the information provided. The immigration officer may, in the interests of fairness, give the applicant the opportunity to comment before a decision is made on any potentially prejudicial information that they may not necessarily be aware of.

It is the responsibility of the applicant to inform the immigration officer of any relevant fact, including any material change in circumstances that occurs after the application is made, if that fact may affect the decision on the application.

Under section 69 Immigration Act, an immigration officer may decline to grant a visa to a person if the immigration officer is satisfied that the person:

- a. submitted false or misleading information
- b. did not ensure that the immigration officer was informed of any material change in circumstances between lodging the application and a decision on the application.

12. Bonds

See section 29 Immigration Act

Before granting a temporary visa, an immigration officer may require a bond to be paid. A bond is a payment that is intended to manage the risk of a person staying in Kiribati after their visa expires.

A bond may only be imposed in respect of temporary visa applications.

A bond may not be imposed on a person who is to be granted a limited visa or a transit visa. No bond may be imposed in respect of a dependent child of a visa applicant.

The bond must specify the conditions under which it is imposed, and the situations in which it may be refunded or forfeited.

The maximum bond per individual applicant is AU\$3000.

If an immigration officer intends to impose a bond on an application for a visa made outside Kiribati, the officer must advise the applicant of that intention and the conditions in writing.

The applicant must signify their acceptance of the bond conditions by completing and signing the approved form setting out those conditions.

If the conditions are not accepted or the bond is not paid, the immigration officer will decide the visa application based on the available information.

The bond must be paid before the visa is granted. It is to be paid in Australian dollars and held in a trust account administered by the Ministry of Finance.

Refund of bond

A bond may be refunded in full or in part, or not at all, depending on the actions of the bonded person.

A bond may be refunded in full only if the person remains in Kiribati lawfully at all times and leaves Kiribati while still holding a valid visa.

A bond may be refunded in part if the person, having remained in Kiribati after their visa expires, remains unlawfully in Kiribati for less than 6 consecutive months before leaving Kiribati voluntarily.

To receive a refund, a person who is eligible must do the following:

- a. apply in writing
- b. give the application to an immigration officer
- c. include their full name and passport number
- d. sign the application
- e. (if appropriate) direct the refund to be paid to a third person
- f. Indicate how they want to receive the refund.

The bond will be repaid in Australian dollars. The person who paid the bond must bear the risk of any monetary losses resulting from currency exchange during the time the bond is held.

No refund can be made until the person has left Kiribati.

Forfeiture of a bond

Forfeiture of a bond is at the discretion of an immigration officer, who must consider:

- a. the reason the bond was imposed
- b. the extent to which any conditions have been met or breached
- c. any explanation for the breach of bond conditions
- d. the estimated cost to the Government of the breach.

The forfeited amount must be paid to the Government bank account.

13. Bona fide applicants

A bona fide applicant is a person who:

- a. genuinely intends a temporary stay in Kiribati for a lawful purpose
- b. in the opinion of the immigration officer is not likely to:
 - i. remain in Kiribati unlawfully
 - ii. breach the conditions of their visa
 - iii. be unable to leave or be deported from Kiribati.

Applicants lodging an application for temporary entry and entry permission must show that they genuinely intend a temporary stay in Kiribati for a lawful purpose.

Evidence of genuine intent may include any information or submissions showing that the applicant has a legitimate need to stay in Kiribati for a specific period, and documents showing that the applicant can meet the criteria of their visa.

Immigration officers must consider:

- a. any evidence of genuine intent and lawful purpose submitted by the applicant
- b. the ability of the applicant to leave or be deported from Kiribati to their country of citizenship
- c. any relevant information about previous applications, including whether the applicant has previously overstayed, breached visa conditions, has dependents unlawfully in Kiribati, etc
- d. the personal circumstances of the applicant, including family ties in Kiribati and their home country, the nature of personal, financial, employment and other commitments in Kiribati, and any circumstances that may discourage the person from returning to their home country.

Having considered all the matters above that are relevant, the type of visa applied for, and any other relevant information, immigration officers must then determine whether or not an applicant is a bona fide applicant.

14. Sponsorship

See section 30 Immigration Act

A sponsor for a temporary entry application must be deemed acceptable by an immigration officer.

An acceptable sponsor may be either a natural person, an organisation, or a government agency.

Acceptable sponsors must complete an application form and provide written undertakings for maintenance, accommodation, and the cost of deportation or repatriation of the applicant.

'Natural person' means the person must be a Kiribati citizen or a holder of a resident visa. They must:

- a. be ordinarily resident in Kiribati during the term of sponsorship
- b. not a sponsor for the purpose of receiving a financial reward or fee
- c. not have been convicted at any time of an offence under immigration law
- d. not have an outstanding debt to the Government as a result of another sponsorship arrangement
- e. not sponsor a person if they have previously breached sponsorship obligations
- f. not have entered insolvency procedures or be declared bankrupt
- g. not be liable for deportation, or have their liability for deportation currently suspended
- h. not be serving a custodial sentence or awaiting sentencing for a custodial sentence.

'Organisations' must:

- a. be registered in Kiribati as a company, incorporated society or charitable trust
- b. identify a clear link between the organisation's activities and the purpose for which the applicant is coming to Kiribati
- c. not be a sponsor for the purpose of receiving a financial reward or fee (excluding any profit gained from work undertaken by the applicant)
- d. not have been convicted of an offence under immigration law
- e. not have any listed directors, trustees or management who have been convicted of an offence under immigration law
- f. not have an outstanding debt to the Government as a result of another sponsorship arrangement
- g. not have previously breached sponsorship obligations
- h. not be in receivership or liquidation.

Sponsorship undertaking

The sponsor is responsible for:

- a. accommodation – meaning suitable accommodation for the person in Kiribati, where the sponsored person does not have the means for their own accommodation
- b. maintenance – meaning the reasonable costs of essential provisions needed for the sponsored person's health and welfare in Kiribati, where they do not have the means for these. This may include food, clothing and medical treatment where required
- c. repatriation – meaning any costs associated with the sponsored person leaving Kiribati at the end of the sponsorship period, if the person does not have the means for their own departure or is liable for deportation
- d. deportation – meaning any costs that are incurred during the sponsorship period in relation to the sponsored person's deportation, which could include the costs of locating, detaining and maintaining the person, and their travel costs in being deported.

Sponsorship undertakings are in effect from the date the sponsored person arrives in Kiribati, or if they are already onshore, the date the sponsored visa is granted, until the earliest of:

- a. the date the sponsored person is granted a new visa with a new sponsor, or no sponsor
- b. the date the sponsored person leaves Kiribati without further travel conditions allowing them to return to Kiribati on the sponsored visa
- c. the date the sponsored person is deported from Kiribati.

If the sponsor fails to comply with the sponsorship undertakings, the sponsored person will be deemed to have breached the conditions of their visa and will become liable for deportation.

Any costs to the Government as a result of a sponsor breaching their sponsorship undertakings, are a debt owed by the sponsor and are recoverable from the sponsor in a court of law.

15. Processing an application

Immigration officers must be satisfied that applicants for temporary entry and entry permission:

- a. have met the health and character requirements for temporary entry
- b. have met the requirements for the category of visa
- c. are bona fide applicants.

Immigration officers have a general obligation to take such steps as are necessary to verify any documentation or information relevant to the decision. When assessing an application, immigration officers must be satisfied that any documentation or information provided with the application is genuine.

An application may be declined if an immigration officer:

- a. cannot establish documentation submitted in applying for a visa is genuine
- b. is satisfied that the documentation submitted is false or misleading.

If there is reason to doubt the claimed identity of the applicant or the authenticity of identity documents, the immigration officer must seek further information to verify the identity of the applicant or authenticity of the documents.

Documenting a decision

All immigration officers must ensure that decisions for temporary visa applications are documented:

- a. make all file records accurate, clear, complete and factual
- b. give all decisions on applications in writing to applicants
- c. state the full reasons for the decision
- d. if an applicant does not meet the requirements on several grounds, the letter declining their application must state why the applicant fails on each ground.

Applications may be approved if the immigration officer is satisfied that the applicant has provided all the evidence required, and the applicant meets all the requirements of the visa they applied for, is a bona fide applicant and meets health and character requirements.

16. Declining an application

See section 70 Immigration Act

If the immigration officer is not satisfied that the applicant has met all the requirements for a temporary entry visa, and an exception to procedures is not justified, the application must be declined.

The immigration officer must give written reasons for the decline and record when this letter is sent to the applicant.

C. Temporary Visas: Visitors Visas

C. Temporary Visas: Visitors Visas

1. Visitor visa requirements

To be granted a visitor visa, applicants must:

- a. meet the generic temporary entry requirements for:
 - i. lodging an application for a temporary entry visa
 - ii. bona fide applicants
 - iii. health and character
- b. meet the funds or sponsorship requirements
- c. meet the onward travel requirements, if relevant
- d. be coming to Kiribati for lawful purpose.

'Lawful purpose' means they are coming for such purposes as holidaying, sightseeing, family and social visits, amateur sport, business consultation. They are not intending to undertake employment or a programme of study or training, with the exception of short-term training.

2. Length of permitted stay

Visitors to Kiribati are limited to a maximum stay on a visitor visa of 4 months in a 12-month period unless they:

- a. cannot leave Kiribati because of circumstances beyond their control, or
- b. apply for a visitor visa under a special category that allows a longer stay in Kiribati.

A visitor visa should allow the applicant to stay in Kiribati for a total of no more than 9 months in the 18-month period before the proposed expiry date of the visa.

3. Multiple journey visas

To be granted a multiple journey visa an applicant must:

- a. lodge an application for a visitor visa from outside Kiribati
- b. meet visitor visa requirements
- c. not have been in Kiribati for more than 9 months in the preceding 18-month period at the time the application is lodged.

On arrival, an applicant may be granted entry permission, provided that they will not spend more than 4 months in Kiribati in the 12-month period before the end of their current stay.

Multiple journey visas may be current for travel up to 3 years from the date they are granted as long as the passport remains valid.

4. Onward travel requirements

Applicants for a visitor visa are required to have the means to leave Kiribati.

Evidence of the means to leave Kiribati includes:

- a. actual travel tickets out of Kiribati to a country which the person has a right of entry to
- b. (for applicants on arrival in Kiribati) a visitor visa endorsed to show that the onward travel requirement has been met or waived
- c. written confirmation from an airline or travel agency that onward travel has been booked and paid for
- d. a letter guaranteeing that onward travel will be arranged from the applicant's employer or home government, if they are travelling on business
- e. travel arrangements to be confirmed subject to payment, provided the applicant has sufficient funds to confirm the arrangements, or
- f. (for sponsored applicants) a Sponsorship Form completed by their sponsor.

Evidence of onward travel is not required if the applicant is applying based on being the partner or dependent child of a work visa holder whose income is sufficient to purchase outward travel to a country which the person has the right of entry to.

5. Group visas

Group visas may be granted to groups of people who will be arriving in and visiting Kiribati together, for the same purpose.

Group visas should name each member of the group and be current for travel within one month of the applicants' intended date of arrival in Kiribati, unless the immigration officer considers the applicants' circumstances warrant a longer or shorter period.

A leader must take charge of the group visa, and:

- a. present it on arrival with the passports or travel documents of the people named in it
- b. ensure the group stays together as a single unit on arrival and completes all necessary arrival formalities.

6. Business visitors

Business visitors who are not considered to be undertaking employment may be granted a visitor visa of up to 1 month, provided they intend to stay in Kiribati for no longer than 4 months in any 12-month period.

Business visitors who are not considered to be undertaking employment include the following:

- a. representatives on official trade missions recognised by the Kiribati Government
- b. sales representatives of overseas companies in Kiribati for a period or periods no longer than a total of 4 months in any calendar year
- c. overseas buyers of Kiribati goods or services for a period or periods no longer than a total of 4 months in any calendar year
- d. people undertaking business consultations or negotiations in Kiribati on establishing, expanding, or winding up any business enterprise in Kiribati for a period or periods no longer than a total of 4 months in any calendar year.
- e. people carrying out any business in Kiribati involving the authorised representatives of any overseas company, body or person for a period or periods no longer than a total of 4 months in any calendar year.

Business visitors who need to be in Kiribati for longer than 4 months in any one year, and all other business visitors, must apply for a work visa.

7. Visitor visas for family

See regulation 12 Immigration (Visa and Entry Permission) Regulations

Partners and children of student or work visa holders

Partners and dependent children of student or work visa holders may be granted visitor visas if that type of visa is appropriate to their needs.

Partners of citizens or residents

Partners of Kiribati citizens or resident visa holders may be granted a visitor visa provided that:

- a. they are living together in a genuine and stable relationship
- b. the Kiribati partner intends to be in Kiribati during the same period of time applied for by the applicant
- c. the Kiribati partner supports the application.

Immigration officers must sight evidence of the following:

- a. the supporting partner's Kiribati citizenship or resident status
- b. the applicant's relationship with their Kiribati partner
- c. that the applicant and their Kiribati partner are intending to live in Kiribati for the same period.

If requested by an immigration officer, applicants must also provide a written declaration from their Kiribati partner confirming they are eligible to support.

Dependent children of citizens or residents

Dependent children of Kiribati citizens and residents may be granted a visitor visa authorising a maximum stay of 9 months from their date of arrival, provided that:

- a. the parent intends to be in Kiribati during the same period applied for by the dependent child
- b. the Kiribati parent supports the application.

If dependent children apply to stay longer than 9 months, immigration officers may consider granting further visas allowing a total stay of up to 2 years if the requirements of (a) above are met.

Immigration officers must sight evidence of the following:

- a. the Kiribati citizenship or residence status of the applicant's parents
- b. documents that confirm the applicant's relationship to the parent
- c. that the applicant and parent are intending to stay in Kiribati during the same period
- d. that the Kiribati parent supports the application.

8. Crew members joining vessels or aircraft

Crew members from countries that do not have a visa waiver agreement with Kiribati, who enter Kiribati to join a vessel or aircraft that will then depart for another country, must obtain a visitor visa before travelling to Kiribati.

A visitor visa allowing a maximum stay of 28 days will be granted to such applicants if they provide fully documented evidence of their engagement as a crew member in Kiribati.

Visas granted to crew members joining vessels or aircraft must state the condition: 'To join the crew of [name of vessel/flight number of aircraft] at [port]'.

9. Visitors arriving by yacht or private aircraft

In addition to meeting the requirements for a visitor to Kiribati, all persons who arrive on a private craft must provide:

- a. (if departing by commercial transport) an outward ticket or evidence of sufficient funds to buy a ticket
- b. if not departing by commercial transport:
 - i. (for owners and their dependents) evidence of ownership of the craft and adequate insurance against major damage
 - ii. (for crew and passengers) a letter from the craft's owner or captain confirming that they will be departing on that craft.

10. Visitor visas for refugee claimants

Refugee status claimants may be granted visitors visas while they await a decision on their refugee claim.

Applications must be made in the prescribed manner, but an immigration officer may waive, by special direction:

- a. the application fee
- b. the requirement to produce evidence of funds or sponsorship
- c. the requirement to produce evidence of travel tickets or onward travel arrangements.

11. Visiting academics and researchers

Visiting academics from visa waiver countries may be granted a 3-month visitor visa and entry permission on arrival in Kiribati.

Visiting academics from non-visa waiver countries must apply for a visitor visa before travelling to Kiribati.

Visiting academics from any country must apply for a work visa prior to travelling to Kiribati if they wish to:

- a. stay in Kiribati for longer than 3 months
- b. make multiple visits with a total duration of more than 3 months in any calendar year
- c. undertake any activity that would fall within the definition of work and is not listed in the definition of activities below.

Visiting academics must be:

- a. well-qualified in their field
- b. either employed by an overseas academic or research institution, or have wide experience in such employment
- c. undertaking activities of a educational, professional management or research nature.

Educational, professional management or research activities are excluded from the definition of work. These activities include:

- a. collaborating on research projects with academics working at Kiribati tertiary institutions, including publishing work
- b. presenting at one-off seminars or conferences organised by a tertiary institution
- c. providing teaching or tutoring for short courses in specialised areas that Kiribati academics do not have the subject knowledge in
- d. sourcing research material only available in Kiribati or conducting research only able to be undertaken in Kiribati
- e. planning and management (including designing and reviewing academic courses, professional development of teaching methods or curriculum development, and sourcing materials for academic and research programmes.
- f. meeting with a post-graduate student from a Kiribati institution who they co-supervise
- g. undertaking performance classes (e.g. in theatre, dance or music)
- h. participating on assessment panels for oral or practical examinations
- i. study tours.

D. Temporary Visas: Work Visas

D. Temporary Visas: Work Visas

1. Definition of work

Work means any activity undertaken for gain or reward, but does not include:

- a. short-term visits by specified business persons
- b. official business in the service of any government, or of any inter-governmental organisation
- c. visits by guests of Government
- d. visits by academics or researchers undertaking specific educational, professional management or research activities.

'Gain or reward' includes any payment or benefit that can be valued in terms of money, such as board, lodging, goods (e.g. food or clothing) and services (e.g. transport).

Unless otherwise specified, 'full-time employment' is at least 30 hours of work per week.

2. Requirements for work visa applicants

Unless specifically stated, all work visa applicants must:

- a. meet the generic temporary entry requirements for:
 - i. lodging an application for a temporary entry visa
 - ii. bona fide applicants
 - iii. health and character
- b. produce evidence to show that they are suitably qualified by training and experience to do the job they have been offered.

Unless specifically stated otherwise, applicants for work visas are required to have sufficient funds for maintenance. This includes showing at least one of the following:

- a. a proposed salary that an immigration officer considers sufficient to cover maintenance and accommodation
- b. a guarantee of maintenance and accommodation by their employer for the currency of the visa
- c. sufficient funds for maintenance and accommodation for the currency of the visa
- d. sponsorship by a relative or friend in Kiribati.

3. General requirements for employers

All employers wishing to employ non-citizens or residents visa holders to work in Kiribati must comply with all relevant employment and immigration law in force in Kiribati.

Compliance includes but is not limited to:

- a. paying employees no less than the minimum wage
- b. meeting holiday and leave requirements and health and safety requirements
- c. only employing people who have authority to work in Kiribati.

Immigration officers may also request other evidence or confirmation of the employer's past and future compliance with employment and immigration law.

4. Authority to work in Kiribati

See section 114 Immigration Act

All employers wishing to employ a non-citizen or resident visa holder have a duty to only employ people who are entitled to work in Kiribati. This duty includes employing people only in accordance with the employment-related conditions of their visas.

Employers are liable for prosecution under the Immigration Act if they:

- a. allow or continue to allow any person to work for that employer, knowing that the person is not entitled under the Immigration Act to do that work
- b. allow a person who is not entitled under the Immigration Act to work in the employer's service to do that work.

It is not a defence to (b) if the employer did not know that the person was not entitled to do that work, except where the employer has taken reasonable steps to find out a person's entitlement to work. Reasonable steps include if, at any time in the previous 12 months, the employer has been informed of that fact in writing by an immigration officer.

Employers can find out if an employee or potential employee is entitled to work for them by:

- a. contacting the Ministry
- b. sighting suitable documentation proving that person's entitlement to work in Kiribati.

'Suitable documentation' includes a Kiribati passport or birth certificate that confirms Kiribati citizenship, a passport with a work visa, resident visa or temporary visa with conditions that allow work.

5. Offers of employment

All offers of employment must be genuine and sustainable and should contain:

- a. name, address and telephone number of the employer
- b. name and address of the person being offered the job
- c. a full job description including:
 - i. address of place of employment
 - ii. type of work, duties and responsibilities
 - iii. details of pay, hours of work and conditions of employment
 - iv. qualifications, experience or training involved
 - v. duration of the job
 - vi. how long the job offer is open.

6. Onward travel requirements

Applicants for work visas may be required to show evidence of the travel arrangements made to leave Kiribati at the end of their stay, such as:

- a. travel tickets out of Kiribati to a country to which the applicant has right of entry
- b. written confirmation from an airline or travel agency that travel has been paid for
- c. sponsorship
- d. a written guarantee of repatriation from the Kiribati employer.

7. Conditions of work visas

A work visa may be granted with any of the following conditions:

- a. the holder may only work in a specific industry, trade, occupation or profession
- b. the holder may work only for a specified employer
- c. the holder may only work in a specified area or location
- d. any other condition the immigration officer or Minister considers appropriate.

8. Single and multiple journey work visas

Single journey work visas and entry permission may be granted and are normally current for travel within one month of the applicant's intended date of arrival.

Multiple journey work visas and entry permission may be granted if immigration officers are satisfied that:

- a. the applicant's passport is valid for a sufficient period
- b. the applicant has not breached the conditions of their visa on any previous visit.

Multiple journey visas may be current for travel for a maximum of 5 years, depending on how long the employment offer or contract lasts.

9. Work visas for partners of citizens or residents

Partners of Kiribati citizens or resident visa holders may be granted a work visa provided that:

- a. they are living together in a genuine and stable relationship
- b. the Kiribati partner intends to be in Kiribati during the same period applied for by the applicant.

Immigration officers must sight evidence of the following:

- a. the supporting partner's Kiribati citizenship or resident status
- b. the applicant's relationship with their Kiribati partner
- c. that the applicant and their Kiribati partner are intending to live in Kiribati for the same period.

10. Domestic staff of consular and official staff

Diplomatic, consular and official staff posted to Kiribati may bring with them domestic staff such as cooks, nannies, drivers and gardeners.

'Domestic staff' does not include people filling administrative or technical roles at posts in Kiribati.

A work visa with multiple journey conditions may granted to domestic staff, for the currency of their employer's visa.

The applicant must:

- a. be over 18 years of age
- b. be suitably trained or experienced for the proposed employment
- c. leave Kiribati on termination of their employment or when the employer's tour is complete
- d. not undertake any other type of work or enrol in any formal study.

Applicants must meet the lodgement, bona fide applicant, and health and character requirements.

Any work visa granted must specify the name of the diplomatic, consular or official staff for whom the domestic staff will be working.

Immigration officers should sight:

- a. a signed 'Statement of Undertaking' from the employer guaranteeing employment, accommodation, maintenance and repatriation
- b. a signed 'Declaration of Acceptance' from the applicant that they have been informed of, and accept, the conditions of their employment in Kiribati.

11. Essential Skills work visa

An essential skills work visa allows overseas workers with an offer of employment to work in Kiribati.

Essential skills work visas may only be granted if:

- a. the employment is acceptable
- b. there are no Kiribati citizens or residents available for the work
- c. the employer meets employment requirements
- d. the applicant meets work visa requirements.

Applicants must lodge the application in the prescribed manner and provide a copy of the signed offer of employment.

'Acceptable employment' means that an immigration officer must be satisfied that:

- a. the offer of employment meets the requirements
- b. the employment offered is genuine, sustainable, and full-time for the duration of the employment period specified in the employment agreement
- c. payment is in wages or salary.

12. Determining the availability of Kiribati citizens and residents

Kiribati citizens or residents are considered to be available if the immigration officer establishes that suitable Kiribati citizens or residents can take up the work or are trained to do the work.

An immigration officer must be satisfied that the employer has made a genuine attempt to attract and recruit suitable Kiribati citizens or residents and that no citizens or residents are available.

13. Currency of Essential Skills work visas

An Essential Skills work visa may be granted for 1 year. Further visas may be granted for the period for which the employment is offered, up to a maximum of 3 years.

14. Conditions of Essential Skills work visa

Essential Skills work visas will be subject to the conditions that the holder:

- a. may work only in a specified industry, trade, occupation or profession
- b. may work only for a specified employer, in a specified area or location.

15. Specific Purpose or Event work visa

Applicants may be granted a Specific Purpose or Event work visa and entry permission if the immigration officer is satisfied:

- a. the applicant will be in Kiribati to complete a specific purpose or event described in Column A in the table on the next page
- b. the applicant has demonstrated that they meet the requirements set out in Column B in the table on the next page
- c. the work is time-bound (not permanent or open)
- d. the applicant is suitably qualified to undertake the work
- e. the applicant has an approved sponsor (if applicable)
- f. the applicant meets health and character requirements.

The currency of the visa must be consistent with the time required for the holder to complete the specific purpose or event, up to the maximum duration indicated in Column C and the total stay in Column D in the table on the next page.

Further Specific Purpose or Event work visas may only be granted if the immigration officer is satisfied that the grant of a further visa is necessary to complete the original specific purpose or event.

Applicants may be granted a multiple entry Specific Purpose or Event visa if appropriate.

16. Specific purposes and events, evidence and visa durations

Column A: People undertaking a specific purpose or event	Column B: Evidence required	Column C: Initial visa duration that may be granted	Column D: Further visa duration that may be granted
Manager, senior or specialist business people on short term secondments in a Kiribati company or subsidiary of an overseas company	Recognised <u>job offer</u> Evidence of applicant's position Terms of secondment, including duration <u>Sufficient funds</u>	Up to 12 months	Up to 12 further months (24 months in total)
Manager, senior, executive or specialist business person seconded to Kiribati as an intra-corporate transferee	Evidence of applicant's position Terms of secondment, including duration <u>Sufficient funds</u>	Up to 12 months	Up to 12 further months (24 months in total)
Contractual service suppliers or independent service suppliers required for services	Evidence of need to perform service in Kiribati Evidence of contract for service <u>Sponsorship</u>	Up to 6 months	No further Special Purpose or Event visa in a 12-month period
People who meet the <u>business visitor visa criteria</u> but need to stay in Kiribati for more than 3 months a year.	Evidence of the time needed to be in Kiribati Evidence of <u>business activities</u> in Kiribati	Up to 12 months	No further Special Purpose or Event visa in a 12-month period
Installers or service installers of specialist machinery or equipment supplied by an overseas company	Evidence that installing or servicing equipment may only be undertaken by the applicant <u>Sufficient funds</u>	Up to 6 months in any 12-month period	No further Special Purpose or Event visa in a 12-month period
Referees or judges of sports events, shows or exhibitions	Invitation or schedule of events showing duration in Kiribati	No longer than 6 months	No further Special Purpose or Event visa
Media, film and video production crew	Terms of production, including duration	For period of engagement	Further visas can be granted with evidence of need for extension

Table Definitions:

- 'Intra-Corporate Transferees' means an employee of an enterprise of another party that has been established in Kiribati through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Kiribati
- 'Executive' means a natural person within an organization who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level
- 'Manager' means a natural person within an organization who primarily directs the organization, a department or subdivision of the organization, supervises and controls the work of other supervisory employees, has the authority to hire and fire or take other personnel actions, and exercises discretionary authority over day-to-day operations
- 'Specialists' means a natural person within an organization who possesses knowledge at an advanced level of technical expertise, and proprietary knowledge of the organization's service, research equipment, techniques or management.
- 'Contractual service supplier' means a natural person of who is an employee of a service supplier or an enterprise and:
 - who enters Kiribati temporarily to perform a service pursuant to a contract between his or her employer and an enterprise in Kiribati
 - is sponsored by the enterprise in Kiribati
 - is employed by an enterprise which has no commercial presence in the territory of Kiribati
 - receives his or her remuneration from that employer
 - has qualifications from three or more years of formal post-secondary school education with appropriate experience to provide the service.
- 'Independent Service Supplier' means a self-employed natural person who is a service supplier entering Kiribati pursuant to a contract with an enterprise in, is sponsored by the enterprise in Kiribati, and who has a qualification resulting from three or more years of formal post-secondary school education and has appropriate experience to provide the service.
- 'Installers or Servicers Installer' or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.

17. Religious Work visa

Religious work must substantially be a primary role including one or more of the following:

- a. teaching or guidance in religious scripture or philosophy
- b. leading religious practice, worship or prayer
- c. conducting religious initiations, ordination or ritual
- d. ministering or pastoral care
- e. roles of religious leadership in relation to any of the above.

Religious work may include:

- a. employment for a position that is paid a salary or wages
- b. work for a position that is paid a stipend
- c. work for a position that does not receive direct financial return to the worker
- d. work for a position that is paid through any alternative arrangement.

Note that religious study is not considered religious work for the purpose of this visa.

Eligibility for a religious worker visa

To be granted a Religious Worker visa, applicants must:

- a. be sponsored by a religious organisation:
 - i. whose primary purpose is advancing religion
 - ii. who meets the generic [sponsorship requirements](#)
 - iii. who can demonstrate a genuine need for the applicant to work for the sponsoring religious organisation as a religious worker
- b. meet [health](#) and [character](#) requirements,

Currency and conditions of Religious Worker visas

Religious Worker visas can be granted for 1 year and will be subject to the conditions that the applicant must work for the sponsoring organisation only and that the sponsoring organisation meets their obligations for the visa's duration.

Religious Worker visas include multiple travel for up to 2 years. Holders of Religious Worker visas may apply for a further Religious Worker visa for up to 2 more years.

Making an application for a Religious Worker visa

Applicants for a Religious Worker visa must provide:

- a. a completed work application form and fee
- b. a Sponsorship form for Religious Workers completed by a religious organisation
- c. evidence from the sponsoring organisation that they can meet all sponsorship undertakings
- d. evidence of employment arrangements
- e. evidence that they meet [health](#) and [character](#) requirements.

E. Temporary Visas: Student Visas

E. Temporary Visas: Student Visas

1. Persons requiring a student visa

A person must obtain a student visa in order to study or undertake training in Kiribati, unless they are:

- a. a Kiribati citizen
- b. the holder of a resident visa
- c. the holder of a student visa
- d. the holder of a limited visa granted for the purpose of study or training.

2. When a student visa is not required

A student visa or variation of conditions is not required:

- a. for work visa holders to undertake any study or training authorised by their employer as part of their employment
- b. for temporary visa holders to undertake one or more programmes of study no more than 3 months duration per 12-month period
- c. for visitor visa holders who attend primary or secondary school for a single period of study up to 3 months per calendar year.

3. Student visa requirements

Unless otherwise specified, to be granted a student visa to attend a programme of study for more than 3 months, applicants must:

- a. have an offer of a place, or if returning to continue a programme of study, a confirmation of enrolment in an approved programme of study with an education provider in Kiribati that meets student visa requirements
- b. be exempted from or have paid tuition fees
- c. meet the [temporary entry visa conditions](#)
- d. meet the [student visa conditions](#)
- e. meet the generic temporary entry requirements for:
 - i. [lodging](#) an application
 - ii. [bona fide](#) applicants
 - iii. [health](#) and [character](#).

4. Student visa conditions

Subject to any special direction to the contrary, every student visa, limited visa and interim visa granted for the purpose of study is subject to the following conditions:

- a. at all times during the currency of the visa to be in Kiribati, the holder has the means to maintain himself or herself in Kiribati, in the form of:
 - i. funds held in Kiribati by or on behalf of or in trust for the holder
 - ii. an acceptable form of financial undertaking by an eligible third party
 - iii. a current approved sponsorship undertaking
- b. at all times during the currency of the visa to be in Kiribati, the holder has the means to travel to a country to which the holder has a right of entry, including:
 - i. a fully paid travel ticket
 - ii. sufficient funds held by or on behalf of the student to purchase a ticket
 - iii. a financial undertaking by an eligible third party, or
 - iv. a current approved sponsorship
- c. the holder attends the programme of study at all times as required, at the place of study endorsed on the visa, unless there are genuine reasons for absences
- d. the holder makes satisfactory progress in the programme of study, as determined by the education provider, and assessed against its academic progress policies
- e. the holder pays all or any fees that are payable by the holder in respect of the programme of study undertaken or to be undertaken.

A student visa holder who breaches visa conditions may become liable for deportation.

5. Offer of a place

Applicants must have an offer of a place with a Kiribati education provider, showing:

- a. the name of the programme of study and the minimum time for completing it
- b. confirmation from provider that the programme the student has the language proficiency and academic capability to succeed
- c. the amount of the tuition fee
- d. whether the student is full-time or part-time
- e. the dates and duration of all scheduled vacations in one academic year.

Applicants who are returning to the same education provider to continue a programme of study may provide confirmation of enrolment which shows:

- a. the name of the programme of study
- b. the annual fee of the programme of study
- c. whether the student is full-time or part time
- d. the dates and duration of all scheduled vacations in one academic year.

6. Change of study conditions

A further student visa or variation of conditions, for the purpose of changing a programme of study, education provider and/or study location, will only be granted if an immigration officer is satisfied that the applicant:

- a. meets the student requirements
- b. has not breached their visa conditions
- c. remains a bona fide applicant.

7. Currency of student visas

Student visas may be granted for the following periods:

- a. if the programme of study is based on the Kiribati academic year, the visa may be granted for the academic year for which the student has paid
- b. if the programme of study lasts for less than one year, or can begin at any time during the year, the visa may be granted to expire no more than one month after the period for which the student has paid.

There is no limit on the number of programmes of study foreign students may undertake in Kiribati.

8. Dependent children of holders of work visas

Dependent children of work visa holders who wish to study in Kiribati may be granted student visas.

Dependent children of work visa holders are regarded as domestic students at primary and secondary schools for the period of the parent's work visa.

Dependent children of work visa holders may be granted student visas without the need to produce evidence of enrolment.

9. Work conditions for practical experience

A student visa may be granted with conditions to allow the student to work in order to fulfil a requirement of practical experience, if the immigration officer is satisfied that practical experience is a course requirement.

F. Temporary Visas: Investment Visas

F. Temporary Visas: Investment Visas

1. Who may apply for an investment visa?

Investment by natural persons who are not I-Kiribati requires a Foreign Investment Certificate, issued under the Foreign Investment Act 2018.

All the criteria for approval of this certificate is set out in that Act. Approval is granted subject to the investor meeting an economic needs test on the basis of established criteria, which looks to whether the proposed investment will provide employment for local persons, expand exports from and reduce imports into Kiribati and provide access to foreign markets, amongst other things.

An investment visa is a temporary visa for a person to stay in Kiribati for a period of time, while they invest in Kiribati.

2. Currency of investment visas

An investment visa would provide an initial visa for stay of up to 2 years, with multiple travel conditions.

A further visa may be applied for a further 2 years, up to 4 years maximum.

3. Requirements for lodging an investment visa application

First, the applicant must apply for and receive an approved Foreign Investment Certificate from the Investment Promotion Division, issued under section 17 of the Foreign Investment Act 2018.

After this, an investment visa application has the same lodging requirements as other temporary visa applications.

For an application to be approved the principal applicant and their family must:

- a. meet the temporary lodgement requirements
- b. be a bona fide applicant
- c. meet health and character requirements; and
- d. produce the Foreign Investment Certificate as completed on form prescribed under the Foreign Investment Regulations 2019.

Note: only the principal applicant needs to show a Foreign Investment Certificate.

Note: An investor may invest in Kiribati without applying for this visa, as long as they have the certificate. The investment visa allows the person to stay for a longer period than other visas, for the specific purpose of investing.

G. Temporary Visas: Other Visas

G. Temporary Visas: Other Visas

1. Military Visas

Members of a visiting force (including members of the civilian component of a visiting force) or crew members of any military craft transporting such people to Kiribati who will be in Kiribati:

- a. at the request or with the consent of the Government of Kiribati
- b. in the ordinary course of the member's duty or employment,

...may apply for and be granted a military visa with multiple entry travel conditions for the duration of their duties or employment in Kiribati.

Accompanying partners and dependent children of military visa holders may be eligible for a temporary entry visa.

2. Military visa applications

Members of a visiting force (including members of the civilian component of the visiting force), or crew members of any military craft transporting such people to Kiribati, applying for military visas must:

- a. meet the temporary lodgement requirements
- b. be a bona fide applicant
- c. meet health and character requirements
- d. provide evidence to establish that they will be in Kiribati at the request or with the consent of the Government of Kiribati or in the ordinary course of their duty or employment.

Applicants are exempt from:

- a. paying an application fee
- b. meeting onward travel requirements.

3. Conditions of visa

Any military visa granted:

- a. will permit the holder to undertake work or study
- b. may have multiple entry travel conditions.

4. Diplomatic, consular, and official staff visas

See regulation 6 Immigration (Visa and Entry Permission) Regulations

Applications for visas for diplomatic, consular and official staff and accompanying dependents must be made at the request of the applicant's sending State to an immigration officer.

Applicants must meet the bona fide applicant requirements, but are exempt from:

- a. lodging requirements
- b. providing an application fee
- c. providing an application in the prescribed form
- d. meeting funds or sponsorship requirements
- e. meeting onward travel requirements
- f. health and character requirements.

Applications must include the following:

- a. full names
- b. date and place of birth
- c. gender
- d. country/countries of citizenship
- e. physical address of diplomatic mission or consular post
- f. diplomatic designation
- g. type, number and expiry date of passport (diplomatic/official)
- h. expected arrival date in Kiribati (if applicable)
- i. approximate duration of assignment in Kiribati
- j. name of person being replaced (if applicable)
- k. details of the official recognised members of the diplomatic, consular or official staff member's family who form part of the household in Kiribati.

There is no maximum length of stay for a diplomatic, consular, official visas.

H. Temporary Visas: Interim Visas

H. Temporary Visas: Interim Visas

1. Grant of an interim visa

An interim visa may be granted to a person who is in Kiribati and;

- a. holds a temporary visa and has applied for a temporary visa, or
- b. is awaiting a review of a decision by the Ministry to decline a visa application.

An interim visa cannot be applied for.

No person is entitled to an interim visa as a matter of right.

Whether or not to grant an interim visa to any person is a matter of absolute discretion of the Minister of Immigration or relevant immigration officer.

There is no right of appeal against a decision not to grant an interim visa.

The holder of an interim visa may not apply for any visa while the interim visa is current.

Currency and conditions of interim visas

Once an interim visa starts, its duration depends on the outcome of the further temporary visa application or review.

An interim visa will expire the day the review is unsuccessful or temporary visa application is declined.

Conditions on each interim visa will depend the type of temporary visa held by the applicant and type of visa applied for. For example:

Visa held	Visa applied for	Conditions
Visitor	Visitor	Visitor
Visitor	Work	Visitor
Visitor	Student	Student
Student	Visitor	Visitor
Student	Work	Visitor
Student	Student	Student
Work	Visitor	Visitor
Work	Student	Student
Military, Diplomatic, Consular, Official	Same type of visa as currently held	Same conditions as currently held
Military, Diplomatic, Consular, Official	Another type of temporary entry class visa	Visitor

Note: An interim visa granted while a review is pending will match the conditions of the visa the applicant held before the review, for example visitor-visitor, work-work, etc.

I. Temporary Visas: Limited Visas

I. Temporary Visas: Limited Visas

1. Who may apply for a limited visa?

The following people may apply for a limited visa:

- a. a person, including a person to whom a visa waiver applies, who is outside Kiribati and who wishes to come to Kiribati for an express purpose
- b. a person arriving in Kiribati to whom a visa waiver applies who wishes to stay in Kiribati for an express purpose
- c. a person in Kiribati who is a holder of a temporary visa
- d. a person in Kiribati who is the holder of a current limited visa and who needs further time to achieve the express purpose for which that visa was granted

2. Who may not apply for a limited visa?

A person may not apply for a limited visa if they are in Kiribati unlawfully. If such a person unlawfully in Kiribati attempts to apply for a limited visa, the grant of such a visa is at the absolute discretion of the Minister or an immigration officer.

3. Currency of limited visas

Limited visas are current for travel until the date specified and for a period appropriate to achieve the express purpose.

If the express purpose is achieved before the expiry date, the express purpose is no longer achievable, or the holder abandons the express purpose, an immigration officer may change the visa expiry date. The new expiry date can be no sooner than 14 days after notice is given to the visa holder.

4. Express purposes for a limited visa

A limited visa must specify the express purpose for which it has been granted including:

- a. studying as a full fee-paying student (for a short course)
- b. attending an event such as a wedding, funeral, conference, ceremony, sports tournament, religious event
- c. family emergencies such as an illness or accident affecting a family member or relative of the applicant in Kiribati
- d. 'milestone' events such as anniversaries or reunions
- e. any other specific purpose other than employment.

5. Limitations

The holder of a limited visa:

- a. must leave Kiribati no later than the day the visa expires
- b. may not apply for a visa or a different class or type while in Kiribati
- c. may not request a special direction
- d. may not appeal to the Minister
- e. will not be granted an interim visa
- f. is liable for deportation if unlawfully in Kiribati after the visa expires
- g. can be served with a deportation order as soon as the visa expires.

6. Conditions for limited visas

Every limited visa is granted subject to the express purpose for which it is granted and to any conditions imposed at any time before, when, or after the visa is granted.

A holder of a limited visa must not undertake employment or a course of study in Kiribati unless authorised by the conditions of their visa.

The holder of a limited visa may be granted a further limited visa only if they require more time to achieve the express purpose for which the original visa was granted.

7. Granting limited visas to temporary visa applicants

If a person applies in the prescribed manner for a temporary visa, an immigration officer may grant a limited visa instead if the person wishes to come to Kiribati for an express purpose, and the person agrees to the grant of a limited visa. The officer must advise the applicant in writing of his or her intention, the conditions of the limited visa, and give the applicant an opportunity to comment.

If the applicant does not want to be granted a limited visa, the immigration officer will determine the application on the information available at the time.

An immigration officer cannot grant a limited visa instead of the visa applied for if the application can be approved under normal procedures, or there is no express purpose associated with the applicant's proposed visit to Kiribati.

8. Requirements for lodging an application for a limited visa

Limited visa applications have the same [lodging requirements](#) as other temporary visa applications and also include evidence about the nature, duration, and timing of the express purpose for which the applicant seeks to be in Kiribati.

if the application is for a further limited visa, evidence about the nature, duration and timing of the express purpose for which the original limited visa was granted, and why that purpose has not been achieved in the time allowed.

A person who applies directly for a limited visa is a bona fide applicant if:

- a. they genuinely intend a temporary stay in Kiribati for an express purpose
- b. their express purpose is a lawful purpose
- c. in the opinion of the immigration officer, they are not likely to remain in Kiribati unlawfully or breach the conditions of the visa.

J. Temporary Visas: Transit Visas

J. Temporary Visas: Transit Visas

1. Definition of 'transit passenger'

Transit passengers are persons who arrive in Kiribati from another country while in transit to another overseas destination.

2. Bona fide transit passengers

A bona fide transit passenger is one who:

- a. has a stated and genuine intention to be in Kiribati only for the purpose of reaching a further destination
- b. will not be in Kiribati longer than the transit period.

All transit passengers must obtain a transit visa before travelling to Kiribati, unless they are persons to whom a transit visa waiver applies.

3. Who must apply for a transit visa?

See regulation 9 Immigration (Visa and Entry Permission) Regulations

A person intending to travel to and be in Kiribati only as a transit passenger must, before proceeding to Kiribati, apply for and obtain a transit visa, unless they are:

- a. a Kiribati citizen or resident visa holder
- b. a person to whom a visa waiver applies
- c. the holder of a temporary entry class visa with relevant travel conditions
- d. a person to whom a transit visa waiver applies.

Note: The Minister may, by special direction, suspend any transit visa waiver as described in (d) above.

4. General rules for transit visas

Transit visas may be granted to applicants who:

- a. apply in the prescribed manner for a transit visa
- b. have stated a genuine intention to be in Kiribati only for the purpose of reaching a further destination

Holders of transit visas may not remain in Kiribati for more than the transit period.

Holders of transit visas are not entitled to apply for entry permission or any type of visa to be in Kiribati.

5. Currency of transit visa

A transit visa is current for the period or until the date specified in it. The transit visa may be valid for any number of journeys to Kiribati in that period or until that date.

Where the holder of a transit visa is still in Kiribati on the expiry of the transit period, an immigration officer may by his or her absolute discretion:

- a. extend the period for which the person may remain in Kiribati, or
- b. grant the person a visa and entry permission.

6. Cancellation of transit visa

If there is sufficient reason, an immigration officer may cancel a transit visa at any time.

If a transit visa is cancelled and the person is outside Kiribati, an immigration officer must notify the person in writing. If the person has arrived in Kiribati, the person is liable for turnaround.

7. How an application must be lodged

See regulation 8 Immigration (Visa and Entry Permission) Regulations

Applications must be lodged in the prescribed manner. Applications that are not lodged in the prescribed manner will not be accepted for processing.

The application must be submitted to an immigration officer, together with the mandatory requirements for temporary visas.

Each principal applicant must lodge a separate application. The partner of a principal applicant, and dependent children less than 20 years old, may be included on an application for a transit visa if intending to travel to Kiribati together.

8. Processing applications

Transit visas must only be granted to a person if an immigration officer is satisfied they have a genuine intention to pass through Kiribati on the way to another destination.

An immigration officer may in his or her absolute discretion, grant a transit visa as an exception to immigration instructions.

9. No appeal against refusal of transit visa

The decision to grant or refuse to grant a transit visa is a matter for the discretion of an immigration officer. No appeal lies against a decision on any matter in relation to a transit visa, whether to a court, the Minister or otherwise.

K. Residence Visas

K. Residence Visas

1. Residence visa requirements

See section 48 Immigration Act

To be granted a residence visa, a person of full age, and full capacity may apply in the prescribed manner to the Resident Visa Commission.

The person making the application must show that the person:

- a. was, on the date of the application, and has been, during the period of 3 years immediately prior to that date, ordinarily resident in Kiribati
- b. intends to continue to reside in Kiribati
- c. is of good character
- d. unless prevented by physical or mental disability is able to speak and understand Kiribati language for normal conversational purposes
- e. has a respect for the customs and traditions of Kiribati, and
- f. has the means of support for him or herself and any dependants.

If satisfied that the above criteria have been met by the applicant, the Resident Visa Commission will recommend to the Minister regarding the application, and the Minister may grant the application, but otherwise shall refuse it.

2. Currency and nature of residence visa

See section 49 Immigration Act

The holder of a residence visa is entitled to:

- a. stay in Kiribati indefinitely
- b. to work in Kiribati or in the exclusive economic zone of Kiribati
- c. to study in Kiribati
- d. to be automatically granted entry permission upon arrival in Kiribati.

3. Who may not apply for residence visas

No limited visa holder, interim visa holder, transit visa holder, or person who is liable for deportation may apply for a residence visa.

4. Residence Visa Commission

See Immigration (Residency Permit) Regulations 2018

The Residence Visa Commission (also known as the Residency Permit Commission) is established by the Immigration (Residency Permit) Regulations 2018. The Commission

consists of 5-7 members appointed by the Minister. Its job is to receive, assess and consider all applications for residence visas in Kiribati.

L. Border processes

L. Border Processes

1. Passenger responsibilities on arrival

See section 71 Immigration Act and regulation 22-24 Immigration (Visa and Entry Permission) Regulations.

Kiribati citizens, if arriving at an immigration control area, are responsible for presenting themselves and producing to an immigration officer:

- a. their Kiribati passport or certificate of identity
- b. a foreign passport containing an endorsement of Kiribati citizenship.

Kiribati citizens must present an arrival card to an immigration officer and comply with any direction of an immigration officer while in the immigration control area.

Non-citizens, including residents, arriving at an immigration control area are responsible for:

- a. presenting themselves to an immigration officer with a completed arrival card, thereby making an application for entry permission and a visa (if a visa waiver applies)
- b. producing their passport or certificate of identity to an immigration officer
- c. allowing biometric information to be collected when applying for a visa or entry permission
- d. producing, if required by an immigration officer, all or any of the following:
 - i. evidence of any visa held
 - ii. travel tickets or evidence of onward travel arrangements
 - iii. evidence of funds for maintenance or of [sponsorship](#)
- e. complying with any direction of an immigration officer while in the immigration control area.

A person who arrives in Kiribati other than at an immigration control area must report to an immigration officer at an immigration control area within 72 hours after arriving and comply with any requirements prescribed in Immigration Regulations.

'Immigration control area' is part of an airport or port or any other place so designated by the Secretary for the processing of people arriving in or departing Kiribati.

Non-compliance

A passenger who fails to comply with the responsibilities set out above or completes an arrival card in a manner that they know is false or misleading in any way, commits an offence and may be prosecuted.

If a person arrives at a place other than an immigration control area and does not report to an immigration officer within 72 hours, any visa they held will be deemed to be cancelled.

2. Passenger responsibilities on departure

See regulation 25-27 Immigration (Visa and Entry Permission) Regulations

Passengers are responsible on departure for:

- a. presenting themselves to an immigration officer at an immigration control area with a completed departure card
- b. producing their passport or certificate of identity to an immigration officer
- c. complying with any direction of an immigration officer
- d. (for non-Kiribati citizens) allowing biometric information to be collected.

Non-compliance

A passenger who, without reasonable excuse, fails to comply with the responsibilities set out above or completes a departure card in a manner that they know is false or misleading in any way, commits an offence and may be prosecuted.

3. Exemption from passport requirement

A member of the armed forces of any country, members of the civilian component, or a crew member of a craft used to transport members of the armed forces of any country to Kiribati, is exempt from having to produce a passport or certificate of identity if:

- a. that armed forces are in Kiribati at the request or with the consent of the Kiribati Government
- b. that person's presence in Kiribati is in the ordinary course of their duty or employment.

4. Exemption from arrival and departure cards

A person is exempt from having to present an arrival or departure card if they are:

- a. crew or passengers of a ship carrying passengers or cargo or both between any foreign port and Kiribati
- b. aircraft crew on any commercial aircraft flying between another country and Kiribati
- c. members of the armed forces in the ordinary course of that member's duty
- d. distinguished visitors to Kiribati (only by special direction, upon request).

5. Persons returning to Kiribati through emergency

The holder of a temporary entry visa must be granted entry permission and a further temporary visa if, on leaving Kiribati for another country the craft is forced to return to Kiribati because of an emergency or circumstances beyond the person's control, and

their visa has expired or is due to expire at any time up to 14 days after their return to Kiribati.

6. Definition and meaning of entry permission

See regulation 17 Immigration (Visa and Entry Permission) Regulations

A person granted entry permission to Kiribati may enter Kiribati.

The grant of entry permission has no effect unless the person also holds a visa. Therefore, a person arriving in Kiribati and to whom a visa waiver applies must apply for both a visa and entry permission on arrival.

The granting of a visa does not of itself entitle the holder to be granted entry permission.

Certain persons are deemed to hold a visa and entry permission.

Entry permission is granted by being entered and retained in the records of the Ministry except for those people deemed to hold a visa and entry permission.

Entry permission may (but need not) be evidenced by an endorsement in a passport or a certificate of identity.

7. Applying for entry permission

Any person who is applying for entry permission must comply with passenger responsibilities on arrival.

It is the responsibility of the person applying for entry permission to:

- a. ensure that all information, evidence, and submissions that they wish to have considered is provided when the application for entry permission is made
- b. inform the immigration officer of any relevant fact, including any material change in circumstances that has occurred between the grant of a visa and the application for entry permission, if that fact or change in circumstances may affect the decision on the application for entry permission.

'Material change in circumstances' means a change that may relate to the person applying for entry permission or another person included in the application for entry permission.

8. Considering an application for entry permission

Immigration officers must consider the application for entry permission in accordance with:

- a. the requirements of the Immigration Act and immigration regulations
- b. any relevant special direction.

When considering an application for entry permission, an immigration officer is not obliged to seek any further information, evidence, or submissions. The officer may

determine the application on the basis of information, evidence, and submissions provided by the applicant or held by Kiribati Immigration.

9. Who must be granted entry permission?

Entry permission must be granted to the holder of a resident visa.

A person who returns to Kiribati through emergency must be granted entry permission unless that person is a excluded person.

10. People who must be refused entry permission

Excluded persons

Entry permission must be refused to any person who is a excluded person under the Immigration Act.

However, any excluded person may be granted entry permission if an appropriately delegated immigration officer gives a special direction to grant a visa and entry permission. If a special direction is given, the visa granted should be of a type and duration appropriate to the reasons for the special direction.

Entry permission may also be granted, and a limited visa granted to a person for the sole purpose of enabling the person to return to Kiribati to face a charge in Kiribati or to serve a sentence imposed on the person in Kiribati.

General character concerns

Entry permission must be refused to any person who:

- a. is arrested on arrival in Kiribati
- b. possesses a forged, fraudulent, or improperly-altered identity document or other official document
- c. possesses a controlled drug without proper authority.

A person above may be granted entry permission if the immigration officer deliberately and properly does so as an exception to procedures.

Circumstances and compliance concerns

Entry permission must be refused to any person who:

- a. makes a false declaration on any part of the Kiribati Passenger Arrival Card or Crew Declaration, whether relating to an immigration matter or not
- b. fails to comply with an immigration, customs, biosecurity, or Police responsibility on arrival, including (but not limited to) failing to:
 - i. apply for a visa (if a visa waiver applies) and entry permission

- ii. produce an arrival card
- iii. produce a passport or certificate of identity
- iv. produce other immigration documentation required by immigration
- v. comply with any other direction or request by immigration or Police.

A person may be granted entry permission if an immigration officer deliberately and properly does so as an exception to procedures.

Stowaways

Entry permission must be refused to any person who is a stowaway.

A stowaway:

- a. is a person who is carried in or on a craft without the consent of the carrier, or the person in charge, of the craft
- b. is unlawfully in Kiribati
- c. is liable to be arrested and detained under the Immigration Act
- d. is liable for turnaround.

A person above may be granted entry permission if an immigration officer deliberately and properly does so as an exception to procedures.

The carrier and the person in charge of a craft must report the presence of a stowaway on board the craft as soon as practicable.

Unable to meet relevant immigration procedures

Entry permission must be refused to any person who;

- a. is unable to meet the requirements for entry permission or a visa including:
 - i. having expired travel documents or no travel documents
 - ii. having no visa, an inappropriate visa or an expired visa
 - iii. having insufficient funds and no sponsorship
 - iv. having no outward ticket
 - v. being previously refused entry permission to Kiribati
 - vi. failing to meet the bona fide applicant requirement
- b. no longer meets the requirements or purpose of the visa held (e.g. job no longer available).

Concealment of relevant information, including changed circumstances

An immigration officer may refuse to grant entry permission if satisfied that the person:

- a. in applying for entry permission, submitted false or misleading information or withheld relevant information that was potentially prejudicial to the grant of the permission

- b. did not ensure that the immigration officer was informed of any material change in circumstances between the time of being granted a visa and the time of applying for entry permission.

Not supplying biometric information

A person who applies for entry permission must allow biometric information to be collected from him or her if required to do so by an immigration officer:

- a. at any time before the person leaves the immigration control area, designated place, or prescribed place at which the application is made; and
- b. if the application is not made in Kiribati, at any time before the person leaves the immigration control area or prescribed place at which he or she arrives in Kiribati.

If a person fails to allow the biometric information to be collected, an immigration officer may refuse to grant the visa or entry permission applied for or revoke any entry permission already granted.

11. Making a decision to grant entry permission as an exception

An immigration officer must attempt to interview a person before deciding to grant entry permission as an exception to procedures. The immigration officer must have regard to the principles of fairness and natural justice.

When making the decision, an immigration officer must consider all the surrounding circumstances such as:

- a. whether the person has compelling and genuine reasons to enter Kiribati
- b. whether the person can take any action to meet the requirements for a visa and/or entry permission
- c. whether there is any other impediment to the grant of a visa and entry permission.

An immigration officer must record reasons for the decision to grant entry permission as an exception to instruction and enter those reasons into the Ministry's records.

12. Withdrawal of entry permission for administrative error

An immigration officer may withdraw a person's entry permission before the person leaves the immigration control area, if the officer believes on reasonable grounds that the entry permission was granted as a result of an administrative error.

Withdrawal of entry permission for administrative error is made by being entered into the Ministry's records and will take effect immediately.

Administrative error includes where entry permission is granted:

- a. to a Kiribati citizen
- b. to an excluded person
- c. contrary to a special direction.

If a person's entry permission is withdrawn for administrative error, the person's visa is automatically cancelled, and the person is liable for turnaround.

An immigration officer must attempt to interview a person before deciding to refuse to grant the person entry permission or revoke the person's entry permission based on administrative error.

When making the decision, an immigration officer must consider all the surrounding circumstances. An immigration officer must record reasons for the decision to grant entry permission as an exception to instruction and enter those reasons into the Ministry's records.

13. Effect of refusal to grant or withdraw entry permission

The effect of a refusal to grant a person entry permission or withdrawing entry permission based on administrative error is that any visa the person holds is cancelled, and if the person has arrived in Kiribati, the person is liable for turnaround.

14. Reasons for decisions to be given

Where a person who applied for a visa or entry permission onshore or in an immigration control area so requests, an immigration officer must give the reasons for any decision to refuse to grant a visa or entry permission to the person.

The reasons must be given in writing where possible.

15. Refugee status claimants

If a person who is in the process of being, or has been, refused entry permission or had their entry permission revoked and indicates that they wish to claim refugee status they must not be removed from Kiribati until their refugee status has been finally determined.

M. Carrier Responsibilities

M. Carrier responsibilities

1. Definitions of craft and carrier

See section 4 Immigration Act

'Craft' means any form of aircraft, ship, or other vehicle or vessel capable of being or intended to be used to transport any person to or from Kiribati from or to any country outside Kiribati.

'Carrier', in relation to a craft:

- a. means the owner or charterer of the craft; and
- b. if the owner or charterer is not in Kiribati, includes the agent in Kiribati of the owner or charterer; and
- c. if there is no agent in Kiribati, includes the person in charge of the craft.

2. Advanced Passenger Processing

See section 99 Immigration Act and Immigration (Carriers' Information Obligations) Regulations

A carrier, or person in charge of a commercial craft, must, prior to their departure from another country to travel to Kiribati, obtain the information prescribed by regulation in the Immigration (Carriers' Information Obligations) Regulations, from every person who intends to board the craft for the purpose of travelling to Kiribati.

This information includes:

- a. the person's name, date of birth, nationality, gender, passport or certificate of identity number, and passport or certificate of identity number
- b. the issuer of the person's passport or certificate of identity, if it is not the person's country of nationality
- c. the person's status as a traveller, including whether the person is a member of the craft's crew, a passenger whose destination is Kiribati, or a passenger whose destination is other than Kiribati
- d. information identifying the craft and its intended movements.

A carrier or person in charge of a commercial craft who, without reasonable excuse, fails to meet the responsibilities set out above commits an offence and may be prosecuted.

The Secretary may exempt a carrier or a person in charge of a commercial craft from complying with the Advance Passenger Processing requirements.

3. Decisions about people boarding craft to come to Kiribati

See section 100 Immigration Act

The Secretary may decide that a person about whom passenger information has been received:

- a. may or may not board a craft for the purpose of travelling to Kiribati
- b. may board a craft for the purpose of travelling to Kiribati if he or she complies with specified conditions.

Where such a decision is made, the Secretary must notify the relevant carrier or person in charge of the commercial craft of that decision.

The Secretary may not make decisions about whether a person may or may not board or may only board subject to specified conditions if that person is:

- a. a Kiribati citizen who, before boarding, holds and produces a Kiribati passport
- b. a resident visa holder.

The Secretary is not obliged to give reasons for decisions about whether a person may or may not board or may only board subject to specified conditions.

A person who is not allowed to board the aircraft may not appeal the decision except on the grounds that the decision should not have been made because they are a Kiribati citizen or resident.

Every carrier or person in charge of a commercial craft commits an offence if:

- a. they allow a person to travel to Kiribati before a decision is made by the Secretary, or
- b. they fail, without reasonable excuse, to ensure that such a decision is complied with.

4. Carrier responsibilities prior to departure

See section 97 Immigration Act and regulation 3 Immigration (Carriers' Information Obligations) Regulations 2020

A carrier or the person in charge of any craft en route to Kiribati, or that berths, lands or arrives in Kiribati is responsible for ensuring all persons boarding the craft have the appropriate [immigration documentation](#) and visas (if required).

A carrier or person in charge of a commercial craft who, without reasonable excuse, fails to ensure that all persons boarding the craft have the appropriate immigration documentation commits an offence and may be prosecuted.

5. Carrier responsibilities on arrival

See section 97 Immigration Act and regulation 3 Immigration (Carriers' Information Obligations) Regulations 2020

Carriers are responsible on arrival for:

- a. preventing, with such reasonable force as may be necessary, any person landing in Kiribati other than in an immigration control area
- b. providing any details about any persons who may have been on board the craft since its last port of call
- c. if the craft is unable to land at an immigration control area, to make appropriate arrangements for all persons on board to report to an immigration officer at an immigration control area, within 72 hours of arriving in Kiribati
- d. reporting to an immigration officer as soon as practicable, the existence of any stowaway on board.

A carrier who, without reasonable excuse, fails to meet the responsibilities set out above commits an offence and appropriate action will be taken against them, including prosecution.

6. Carrier responsibilities on departure from Kiribati

See section 98 Immigration Act and regulation 6 Immigration (Carriers' Information Obligations) Regulations 2020

Carriers are responsible on departure for:

- a. reporting to an immigration officer immediately before the craft leaves, details of any crew member or person who was on board when the craft arrived in Kiribati and is not on board the departing craft
- b. allowing on board the craft for carriage from Kiribati any person being deported or who is liable for turnaround, as long as an offer to pay the fare has been received in relation to the person being deported and the safety of the craft or other persons on board is not endangered
- c. if a constable or an immigration officer delivers a person being deported to the craft, taking all reasonable steps necessary to detain that person on board the craft until it has left Kiribati
- d. providing, at the carrier's cost, carriage from Kiribati of any person who:
 - i. was on board the craft, or any other craft operated by the carrier, when it arrived in Kiribati but did not hold a visa permitting travel to Kiribati and was, on arrival in Kiribati, refused a visa and entry permission
 - ii. arrived as crew of the craft, or any other craft operated by the carrier and remained unlawfully in Kiribati after that craft left

- iii. meeting the costs (if any) incurred by the Government in detaining and maintaining any person described above until the person has left Kiribati on the first available craft.

A carrier who fails to meet the responsibilities set out above commits an offence and appropriate action will be taken against them, including prosecution.

7. Requirement to provide further information

See section 97 Immigration Act and regulation 5 Immigration (Carriers' Information Obligations) Regulations 2020

If the Secretary has requested information about a person who intended to or did travel to Kiribati not more than 14 days before or after the arrival of the craft, the relevant carrier or person in charge of the craft must provide the Secretary with information about:

- a. where and on what date the person booked the intended travel
- b. with whom, if anyone, the person intended to travel
- c. with whom the person has previously travelled
- d. whether or not the person paid for their own intended travel, and the manner of payment
- e. the person's travel movements before the intended travel
- f. whether the route of the person's previous travel has changed from the way that he or she originally booked the travel, and if so, in what way
- g. whether the person failed to undertake travel on a previous occasion
- h. whether the person has unchecked baggage.

The information specified above must be provided whether or not the person whom the information is about actually boarded the craft.

Information specified above may be retained by the Secretary if:

- a. the Secretary decided that the person to whom it relates may not board a craft for the purpose of travelling to Kiribati
- b. the person has been refused a visa and entry permission on arrival or in a place designated by the Secretary outside Kiribati
- c. the information needs to be retained as part of a record of a particular action having been taken in relation to the person to whom it relates (e.g. a record that a person was interviewed on arrival)
- d. the information gives the Secretary good cause to suspect that an offence against this Act is being, or may have been, committed
- e. the information gives the Secretary good cause to suspect that a risk to border security exists.

A carrier or person in charge of a commercial craft who fails, without reasonable excuse, to meet the responsibilities above commits an offence and may be prosecuted.

N. Compliance Powers

N. Compliance Powers

1. Powers of entry and search

See section 101 Immigration Act

An authorised immigration officer or a member of the Police undertaking immigration duties may enter and search any craft that arrives in Kiribati, enter and search any land or premises in any airport or port, without warrant or any other authority than the Immigration Act, if they believe on reasonable grounds that this is necessary to:

- a. detect any offence against the Immigration Act
- b. apprehend any person who is liable for deportation or turnaround
- c. process arriving passengers
- d. locate any stowaway
- e. deport any person or facilitating the departure of persons liable for turnaround.

An authorised immigration office or a member of the Police undertaking immigration duties may enter and search any border place where they have good cause to believe an offence against the Immigration Act is being or is likely to be committed or to apprehend a person liable for deportation or turnaround who is in the place.

'Border place' means:

- a. any part of the foreshore
- b. the shores or banks of any port, bay, harbour, or other waters
- c. any land or premises in any port, including any container-base, immigration control area, wharf, or transit building
- d. any pier attached to or extending from any such shore or bank.

An authorised immigration officer or a member of the Police undertaking immigration duties may enter and search any ship or other sea-borne vessel within the contiguous zone or territorial sea of Kiribati, if they believe on reasonable grounds that there is on board a person who, if they land in Kiribati, will commit an offence against the Immigration Act, or be liable for deportation, or be or likely to be liable for turnaround.

2. Powers to obtain information from employers

See section 103 Immigration Act

An immigration officer may enter any part of an employer's premises in which the officer reasonably believes a wages and time record, or any other document relating to the remuneration or employment conditions of an employee is kept. The officer may require the employer to produce that document or record for inspection and copy any part of a record that is required to be produced.

The powers described above may only be exercised in the following circumstances:

- a. where the immigration officer believes on reasonable grounds that there is kept on any premises:
 - i. any wages and time record kept by an employer
 - ii. any other document relating to the remuneration or employment conditions of an employee
- b. there may be information in that record or other document relating to a person who is:
 - i. not entitled to work in Kiribati or to undertake work of the relevant type or duration or for the relevant employer
 - ii. otherwise not complying with obligations under the Immigration Act (including obligations as an employer)
 - iii. liable for deportation.

The powers described above may only be exercised for the following purposes:

- a. determining whether a person is complying with work related conditions of their visa
- b. determining whether an employer is complying with the employer's obligations under the Immigration Act
- c. locating a person who is liable for deportation
- d. determining whether a person who is working for an employer in Kiribati is entitled to work in Kiribati.

Entry may be made at any reasonable time, both day and night, during which the work is being carried out on the premises or premises are open for business.

No warrant or authority other than section 103 of the Immigration Act is required.

Any original documents or things produced under this section may be retained and used by an immigration officer until the immigration officer has determined whether the person to whom they relate is liable for deportation or turnaround, and then:

- a. if the person is liable for deportation or turnaround, the documents or things may be retained and used toward effecting the person's deportation from Kiribati
- b. if the person is not liable for deportation or turnaround, and does not become liable for deportation, the documents or things must be returned to the person as soon as possible.

3. Powers to obtain information from education providers

See section 102 Immigration Act

An immigration officer may:

- a. enter any part of the education provider's premises in which the officer reasonably believes the information or record described below is held
- b. require the education provider to produce the information or record for inspection
- c. copy any information or record that is required to be produced to the officer.

The powers described above may only be exercised in circumstances where an immigration officer believes on reasonable grounds that:

- a. any information or record is held on an education provider's premises; and
- b. that information or record may relate to a person who is:
 - i. not entitled to study in Kiribati, or undertake a programme of study of a particular type conducted by a particular education provider
 - ii. otherwise not complying with obligations under the Immigration Act (including obligations as an education provider)
 - iii. liable for deportation.

The powers described above may not be exercised in relation to a person undertaking compulsory education or any member of the family of such a person.

The powers described above may only be exercised for the following purposes:

- a. determining whether a person is complying with the study-related conditions of his or her visa
- b. determining whether an education provider is complying with the provider's obligations under the Immigration Act
- c. locating a person who is liable for deportation.

Entry may be made at any reasonable time, both day and night, during which the education provider is open for business.

No warrant or authority other than section 102 of the Immigration Act is required.

4. Power to request information for suspected deportation

If an immigration officer has good cause to suspect that a person is liable for deportation or turnaround, the officer may, for the purpose of establishing whether that is the case, request the person to do one or more of the following things:

- a. supply the person's full name (or names, if the person is known by more than 1 name), date of birth, country of birth, nationality, and residential address
- b. produce any identity documents for inspection
- c. surrender any identity document produced above
- d. if the person does not currently have in his or her possession an identity document requested by the officer, give details to the officer of where it can be found or who is holding it.

Before requesting the person to do any of the above, the immigration officer must first:

- a. inform the person that he or she suspects that the person is liable for deportation or turnaround; and
- b. warn the person that if the person fails without reasonable excuse to comply with his or her request, the person is liable to arrest and detention under the Immigration Act.

Where a person is found to be liable for deportation or turnaround an immigration officer may require the person to produce and surrender any travel tickets, or cash or security in lieu of travel tickets, held by the person.

5. Obligation of third parties to surrender identity documents

A person (person A) must surrender an identity document relating to another person (person B) to an immigration officer if:

- a. person B has failed to produce or surrender the identity document when required to do so, or has told an immigration officer where the identity document may be found or who is holding it, and
- b. the immigration officer has good cause to suspect that person A is in possession of the identity document
- c. the immigration officer gives person A a certificate in the prescribed form that requires person A to surrender the identity document.

No action lies against person A in any court if person A surrenders an identity document relating to person B to the immigration officer.

An authorised immigration officer may, in order to facilitate the deportation or turnaround of a person, exercise the powers above if:

- a. the person is liable for deportation or turnaround

- b. the person has refused a requirement to produce or surrender an identity document
- c. the immigration officer has reasonable grounds to believe that the identity document is at the place to be entered and searched
- d. the place proposed to be entered and searched is the place where the person is currently located or the person's house or vehicle.

An immigration officer may at any reasonable time, without a warrant or any other authority, do either or both of the following:

- a. enter and search a place referred to in (d) above
- b. seize any identity document that a person has been required to produce or surrender and that is found at the place.

6. Powers of entry and search relating to deportation

See section 101 Immigration Act

For the purpose of serving any deportation liability notice, deportation order, or removal order, or executing a deportation order or removal order, an immigration officer authorised may, without further authority than section 101 of the Immigration Act, and by force if necessary:

- a. enter and search at any reasonable time by day or night any building or premises in which the officer believes on reasonable grounds that the person named in the notice or order is present
- b. serve the notice or order, or execute the deportation order or removal order.

7. Constables' powers

A constable has the same powers of entry and inspection as an immigration officer.

8. Requirement on officers to identify themselves

Immigration officers and constables are all required to identify themselves when exercising the powers of an immigration officer under the Immigration Act.

Suitable evidence of identity is as follows:

- a. for immigration officers, the officer's warrant of designation
- b. for constables, being in uniform is sufficient, otherwise the officer's badge or other evidence of being a member of the Police.

If an officer is seeking entry to any premises, building or craft in the course of their duties, the officer must, if called upon to do so, state the provision or provisions of the Immigration Act which entitle them to entry.

P. Deportation

P. Deportation

1. Deportation decisions

The Minister of Foreign Affairs and Immigration (the Minister) has the authority to decide to make a person liable for deportation. Generally, the Minister will delegate this authority.

The Minister cannot delegate the authority to make decisions under section 79 of the Immigration Act which applies to people who are a threat or risk to security.

Immigration officers and the Kiribati Police have powers permitting them to locate and investigate persons unlawfully in Kiribati or otherwise liable for deportation.

2. Deportation liability if person unlawfully in Kiribati

A person unlawfully in Kiribati is liable for deportation.

Categories of people who may be in Kiribati unlawfully

See section 79 Immigration Act

Persons who may be in Kiribati unlawfully include any of the following:

- a. the former holder of a temporary or limited visa who remains in Kiribati after that visa expires
- b. any of the following people who are liable for turnaround including:
 - i. a person to whom a visa waiver applies and who fails to apply for a visa and entry permission or is refused a visa
 - ii. a person to whom a visa waiver does not apply and who is not the holder of a visa
 - iii. a person who holds a visa but the visa is subsequently cancelled
 - iv. a person who is a stowaway
 - v. a person who after arriving in Kiribati, has their transit visa cancelled
 - vi. a person who is the holder of a transit visa and the transit period has expired.

3. People unlawfully in Kiribati must leave

From the moment a person is in Kiribati unlawfully, they are obligated to leave Kiribati unless they are subsequently granted a visa.

The obligation for a person unlawfully in Kiribati to leave Kiribati arises whether or not they are aware of their obligation to leave or of their liability to be deported from Kiribati.

4. People unlawfully in Kiribati arrested for other offences

Sometimes, people unlawfully in Kiribati are arrested by the Police and placed in custody because they have committed other offences. Because action in relation to other offences takes precedence over deportation, it may not be possible to proceed with deportation immediately.

If it is still appropriate to deport them, a deportation order should be served, and the officer should liaise with the Police to determine how the deportation can best be carried out.

5. Deportation liability: other grounds

Deportation liability if person's visa granted in error

See section 76 Immigration Act

A person is liable for deportation if an immigration officer determines that their visa was granted as a result of an administrative error and was not cancelled, nor a further visa granted.

Deportation liability of temporary entry class visa holder for cause

See section 78 Immigration Act

A temporary entry class visa holder is liable for deportation if the Minister or an immigration officer determines that there is sufficient reason to deport them. Sufficient reason includes but is not limited to:

- a. breach of conditions of the person's visa
- b. criminal offending
- c. other matters relating to character
- d. concealing relevant information in relation to the person's application for a visa
- e. a situation where the person's circumstances no longer meet the rules or criteria under which the visa was granted.

6. Making a temporary visa holder liable for deportation

If an immigration officer determines that a person, who holds a temporary entry class visa, is liable for deportation, a deportation liability notice may be served on the person. Only officers holding the appropriate delegation have authority to determine that the holder of a temporary visa is liable for deportation.

7. Deportation liability for resident visa holders

See section 80 Immigration Act

A resident visa holder is liable for deportation if:

- a. the Minister determines, or the person is convicted of an offence where it is established that information provided in relation to the person's application for a resident visa was fraudulent, forged, false, or misleading, or any relevant information was concealed
- b. not later than 5 years after the date the person first held a resident visa new information becomes available that relates to the character of the person and was relevant at the time the visa was granted, and the Minister determines that the person would not have been eligible for the visa if that information had been available when the visa was granted
- c. if they are convicted, in Kiribati or elsewhere:
 - i. of an offence for which the court has the power to impose imprisonment for a term of 3 months or more if the offence was committed at any time when the person was unlawfully in Kiribati or held a temporary entry class visa but not later than 2 years after the person first held a resident visa
 - ii. of an offence for which the court has the power to impose imprisonment for a term of 2 years or more, if the offence was committed not later than 5 years after the person first held a resident visa
 - iii. of an offence and sentenced to imprisonment for a term of 5 years or more, if the offence was committed not later than 10 years after the person first held a resident visa.

8. Deportation liability of persons threatening security

See section 79 Immigration Act

Where the Minister certifies that a person constitutes a threat or risk to security, the Minister may order the deportation of that person. The Minister may revoke that order.

9. Effect of being liable for deportation

See section 82 Immigration Act

A person liable for deportation may not:

- a. apply for a visa, if he or she is unlawfully in Kiribati
- b. apply for a further visa of a different type, if he or she currently holds a visa.

An immigration officer may, in his or her absolute discretion, grant a visa of a different class or type to a person who currently holds a visa.

10. Deportation liability notice

See section 81 Immigration Act

A deportation liability notice must be served on a person liable for deportation if it is intended to execute the deportation of the person. The person has 28 days from the date the deportation liability notice is served to leave Kiribati.

If a deportation liability notice is served by way of personal service, it may be served only by an immigration officer or by another person on behalf of an immigration officer.

An immigration officer may, without further authority than section 101 of the Immigration Act, and by force if necessary, enter and search at any reasonable time by day or night any building or premises in which the officer believes that the person named in the notice is present and serve the notice.

Contents of deportation liability notice

A deportation liability notice must be signed by an immigration officer and state:

- a. the provisions of the Immigration Act under which liability for deportation arose
- b. the grounds on which liability for deportation arose
- c. whether there is a right of appeal against liability for deportation and, if so what it is, how to exercise the right of appeal and the time limit for lodging
- d. the length or period of prohibition on entry to Kiribati that the person named in the notice may become subject to
- e. the consequences of attempting to return to Kiribati during the prohibition
- f. the requirement to repay any costs to the Government of deportation.

11. Minister may cancel or suspend liability for deportation

See section 85 Immigration Act

The Minister may at any time, by written notice, cancel a person's liability for deportation.

The Minister may at any time, by written notice, suspend a resident visa holder's liability for deportation for a period not exceeding 5 years, and subject to the visa holder complying with any conditions stated in the notice.

Where a person fails to comply with the conditions stated in a notice above the Minister may reactivate the person's liability for deportation by causing a deportation liability notice to be served on the person that sets out the grounds of the reactivation.

If the Minister determines that a person has met the conditions for the period of the suspension, the Minister must cancel the person's liability for deportation and notify the person of that fact.

12. Service of a deportation order

See section 87 Immigration Act

A deportation order may be served on a person who is liable for deportation.

A deportation order may only be served by an immigration officer (or by another person on behalf of an immigration officer) or a constable.

13. Time when deportation order may be served

Where a person has a right to appeal against liability for deportation, the first day on which a deportation order may be served on the person is:

- a. the day after the expiry of the period for lodging an appeal, if the person has not lodged an appeal
- b. where the person has lodged an appeal to the Minister:
 - i. if the appeal is withdrawn, the day after the withdrawal
 - ii. if the liability for deportation is upheld, the day that is 28 days after the Minister determines the appeal.

A deportation order may be served immediately on a person in the following circumstances:

- a. where the person has been served with a deportation liability notice and the person does not have a right of appeal against liability for deportation
- b. where the person was the holder of a limited visa that has expired.

14. Content of deportation order

See section 87 Immigration Act

A deportation order must specify:

- a. that the person named in the order is ordered to be deported from Kiribati
- b. that any visa held by the person has been, or will be, cancelled in accordance
- c. the provision of the Immigration Act under which the person became liable for deportation
- d. the ground or grounds for deportation
- e. the period of any prohibition on entry to Kiribati that the person named in the order is subject to
- f. the consequences of attempting to return to Kiribati during the period of prohibition
- g. that the person is required to repay the actual or (if an estimate of costs is specified in the deportation order) the estimated costs of deportation.

A deportation order must be signed by an immigration officer.

15. Deportation order may be cancelled

The Minister may, in his or her absolute discretion, cancel a deportation order served on a person who is unlawfully in Kiribati.

No person has a right to apply for the cancellation of a deportation order. However, the Minister must consider cancelling the deportation order of a person who is in Kiribati if the person provides information concerning his or her personal circumstances, and the information is relevant to Kiribati's international obligations.

If the Minister does consider cancelling a deportation order, whether by way of a purported application or his or her own motion, the Minister must have regard to any relevant international obligations, but otherwise:

- a. may make a decision as he or she thinks fit; and
- b. in doing so, is not under any obligation, whether by implication or otherwise to apply any test or to inquire into the circumstances of the person who is the subject of the deportation order or any other person.

16. Executing a deportation order

See section 88 Immigration Act

A deportation order may be executed once it has been served on the person subject to the order.

A deportation order may be executed by:

- a. taking the person into custody
- b. escorting the person to an airport or port, and
- c. ensuring that the person is placed on board a craft and detained there until the person leaves Kiribati.

A deportation order may be executed in respect of a person who is serving a sentence of imprisonment in a prison only if the Minister has ordered the release of the person.

17. Meaning of deported

A person is deported from Kiribati if:

- a. the person leaves Kiribati (whether or not at the expense of the Government of Kiribati):
 - i. on or after the date on which a deportation order may be served on the person
 - ii. after a deportation order has been served on the person
 - iii. while he or she is subject to a prohibition on entry to Kiribati
- b. the person is served with a deportation order when he or she is outside Kiribati.

18. Prohibition on entry

See section 89 Immigration Act

A person 18 years of age or over who is deported may not return to Kiribati, or be granted a visa or entry permission, during the period of prohibition on entry that applies to the person as set out in the following table:

Why person deported	Period of prohibition on entry
Unlawfully in Kiribati and leaves voluntarily before being served with a deportation order	None
Granted a visa as the result of an administrative error and visa not cancelled	None
Unlawfully in Kiribati, and subject to deportation order and deported less than 12 months after becoming unlawfully in Kiribati	2 years
Unlawfully in Kiribati, and subject to deportation order and deported 12 months or more after date of becoming unlawfully in Kiribati	5 years
Unlawfully in Kiribati, and subject to deportation order for second or subsequent time	5 years
Sufficient reasons for temporary entry class visa holder to be deported	5 years
Breached resident visa conditions	5 years
Visa granted on basis of false identity	Permanent prohibition
Fraud, forgery, etc in relation to an application	Permanent prohibition
New information as to character becomes available	Permanent prohibition
Resident visa holder convicted of specified offence	Permanent prohibition
A person constituting threat or risk to security	Permanent prohibition

19. Consequence of attempt to re-enter Kiribati

If a person to whom a period of prohibition on entry applies attempts to enter Kiribati, the period will restart from the later of the date the person attempts to re-enter if the entry is unsuccessful.

Q. Review and appeal

Q. Review and appeal

1. Reconsideration of temporary visa decline decision

See section 91 Immigration Act and regulation 7 Immigration (Visa and Entry Permission) Regulations

A person in Kiribati who disagrees with a decision of an immigration officer to decline a temporary entry visa application may seek a reconsideration of that decision.

A person who wishes to have the decision reconsidered must put their request in writing to the Ministry and submit their request within 7 working days of the decision to decline their application.

The request must be referred to the immigration officer who made the decision or to another immigration officer who:

- a. must either:
 - i. refer the matter to the Secretary within 7 working days, or
 - ii. reverse the original decline decision, and
- b. may, if he or she refers the application to the Secretary, grant an interim visa enabling the person to stay in Kiribati pending the Secretary's decision.

If the person disagrees with the Secretary's finding, the person may put their request for in writing to the Minister and submit their request within 7 working days of the decision of the Secretary.

The Secretary may grant an interim visa allowing the person to stay in Kiribati pending the determination of such an appeal.

2. No right of appeal for holders of limited visas

The holder of a limited visa has no right of appeal either:

- a. during the period that they are the holder of the visa
- b. after the limited visa expires, if they have not been granted a visa of another class or type.

3. Appeals for people with deportation liability

See section 92, 94 and 95 Immigration Act

The table below shows the reason for deportation liability, with time limit for appeal and the grounds for appeal.

Reason for deportation liability	Time to appeal	Appeal grounds
Unlawfully in Kiribati (section 75(2))	42 days after becoming unlawful	Humanitarian grounds
Visa cancelled as a result of an administrative error (section 76(2))	10 days after service of deportation liability notice	Facts and humanitarian grounds
Temporary or interim visa holder held in a false identity (section 77(2))	10 days after service of deportation liability notice	Humanitarian grounds
Temporary visa cancelled for cause (section 78(4))	10 days after service of deportation liability notice	Humanitarian grounds
Resident visa held in a false identity (section 77(2))	10 days after service of deportation liability notice	Humanitarian grounds
Resident visa holder convicted of a criminal offence (section 80(2))	28 days after service of deportation liability notice	Humanitarian grounds

4. Grounds for determining a humanitarian appeal

See section 95 *Immigration Act*

The Minister must allow an appeal against liability for deportation on humanitarian grounds only if satisfied that:

- a. there are exceptional circumstances of a humanitarian nature that would make it unjust or unduly harsh for the appellant to be deported from Kiribati
- b. it would not in all the circumstances be contrary to the public interest to allow the appellant to remain in Kiribati.

R. Arrest and detention

R. Arrest and detention

1. Persons liable to arrest and detention

See section 118 Immigration Act

The following persons are liable to arrest and detention under the Immigration Act:

- a. persons who are liable for turnaround
- b. persons who are liable for deportation
- c. persons who are suspected by an immigration officer or a constable to be liable for deportation or turnaround and who fail to supply satisfactory evidence of their identity when requested under the Immigration Act
- d. persons who are, on reasonable grounds, suspected by an immigration officer or a constable of constituting a threat or risk to security.
- e. in the case of a person who has breached residence and reporting requirements agreed under the Immigration Act or conditions imposed, to detain the person pending a determination by the Magistrate Court.

2. Implications of liability to arrest and detention

Where a person is liable to arrest and detention under the Immigration Act:

- a. the person may be arrested and detained without warrant for a period not exceeding 5 days by a constable in accordance with section 121 of the Immigration Act
- b. an immigration officer may agree to residence and reporting requirements with the person in accordance with section 120 of the Immigration Act
- c. the person may be detained in custody under a warrant of commitment issued under section 122 of the Immigration Act
- d. the person may be released on conditions under section 125 of the Immigration Act.

3. Duties of detaining officers

When detaining any person under section 118 of the Immigration Act, it is an immigration officer's duty to:

- a. inform the person at the time of the detention of the reason for the detention
- b. produce the officer's warrant
- c. inform the person that he or she may contact a lawyer or if appropriate, a responsible adult
- d. inform the person of the maximum duration of the detention.

When arresting and detaining any person without warrant under section 121 of the Immigration Act, it is a constable's duty to:

- a. inform the person at the time of the arrest, unless in all the circumstances it is impracticable to do so, of the reason for the arrest, and that the arrest does not relate to a criminal matter
- b. where the constable is not in uniform, to produce the constable's badge or other evidence of being a constable
- c. inform the person that he or she may contact a lawyer or if appropriate, a responsible adult
- d. to inform the person of the maximum duration of the detention.

4. Using physical force when exercising detention power

See section 126 Immigration Act

When exercising the power of detention under section 118 of the Immigration Act, an immigration officer may use such physical force as the immigration officer has reasonable grounds to believe is reasonably necessary:

- a. to prevent the detained person from harming any person, damaging any property, escaping or attempting to escape from detention
- b. to recapture the person, if the person is fleeing, having escaped from detention.

An immigration officer who uses physical force to exercise a detention power must give to the Secretary a written report of the use of the force, the circumstances in which it was used and provide the report not later than 3 working days after the use of the force.

5. Power of arrest – constables

When arresting and detaining any person without warrant under section 121 of the Immigration Act, the constable has a duty to:

- a. inform the person at the time of arrest, unless in all the circumstances it is impracticable to do so, of the reason for the arrest and the fact that the arrest does not relate to a criminal matter
- b. if not in uniform, produce evidence that they are a constable
- c. inform the person that they may contact a lawyer, or (if appropriate), a responsible adult
- d. inform the person of the maximum duration of the detention.

6. Rules about searching persons

When an immigration officer exercises a power to search a person, he or she:

- a. must identify himself or herself either by name or immigration warrant card
- b. must state the section of the Immigration Act under which the search is taking place and the reason for the search unless it is impracticable to do so
- c. must produce his or her immigration warrant card as evidence of his or her identity
- d. may use any force that is reasonable for the purpose of the search
- e. may use any equipment or aid to facilitate the search, if it is used in a way that involves no or minimal contact and is reasonable in the circumstances
- f. may, if he or she considers that it is in the interests of the person to be searched, request:
 - i. the assistance of a medical practitioner or nurse
 - ii. the assistance of a parent, guardian, or other person for the time being responsible for the day-to-day care of the person to be searched
- g. may search any item that the person is wearing or carrying or is in the person's physical possession or immediate control and may seize anything carried by the person if that thing is the subject of the search or may otherwise be lawfully seized.

If an immigration officer exercises a power to search a person, or searches a person with his or her consent, the immigration officer must ensure that an inventory of any items seized is prepared promptly and that a copy is given to the person searched.

7. Initial period of detention for up to 5 days without warrant

See section 121 Immigration Act

Where a person is liable to arrest and detention under the Immigration Act, for a purpose set out in section 118 of the Immigration Act, a constable may, and if requested by an immigration officer must, arrest the person without warrant and place them in custody.

A person arrested and detained under section 118 of the Immigration Act may be detained only as long as is necessary to achieve the purpose of the arrest and detention without further authority than that section but must not be detained for a period longer than 5 days.

8. Persons arrested and detained on suspected risk to security

See section 79 and 118 Immigration Act

In the case of a person arrested and detained under section 118(d) of the Immigration Act on the suspicion that the person constitutes a threat or risk to security, a constable must as soon as is practicable refer the case to the Minister to determine whether to certify that the person constitutes a threat or risk to security.

9. Turnaround of persons arriving at the border

See section 73 Immigration Act

A person arriving in Kiribati from another country may be subject to turnaround under the Immigration Act if:

- a. they are a person to whom a visa waiver applies and who fails to apply for a visa and entry permission or is refused a visa
- b. they are not a person to whom a visa waiver applies and not the holder of a visa granted under the Immigration Act
- c. they hold a visa but the visa is subsequently cancelled
- d. they are a stowaway
- e. after arriving in Kiribati, their transit visa is cancelled by an immigration officer
- f. they are a transit passenger and the transit period concerned has expired.

A person who is liable for turnaround:

- a. is deemed to be unlawfully in Kiribati
- b. does not have any rights of appeal on humanitarian grounds
- c. is liable to be arrested and detained under the Immigration Act.

10. Detention of persons liable for turnaround

See section 74 Immigration Act

The detention provisions of the Immigration Act may be applied to any person subject to turnaround within 72 hours of that person's first contact with an immigration officer after arrival in Kiribati.

A warrant of commitment must be obtained if the person is to be detained for more than 5 days.

If a warrant of commitment is necessary, it must be applied for when it becomes apparent that before the expiry of the 5 day period, the person will not be able to leave Kiribati.

11. Placing persons who are liable for turnaround

In the first instance, a person who is liable for turnaround must be placed on the first available craft to take them from Kiribati.

An immigration officer may use their discretion to determine whether a person who is liable for turnaround needs to be placed into custody, by considering if a craft is available to take them on the same day and the person concerned poses no security risk, as assessed in conjunction with the Police.

If an immigration officer determines that custody is necessary, the officer must ask a constable to detain the person in custody until departure and arrange the departure of the detained person.

12. Residence and reporting requirements

See section 120 Immigration Act

Rather than causing a person who is liable for arrest and detention to be arrested or making an application for a warrant of commitment, an immigration officer and the person liable for arrest and detention may agree that the person will do all or any of the following things:

- a. reside at a specified place
- b. report to a specified place at specified periods or times in a specified manner
- c. provide a guarantor who is responsible for:
 - i. ensuring the person complies with any requirements agreed under this section; and
 - ii. reporting any failure by the person to comply with those requirements;
- d. undertake any other action to facilitate the person's deportation from Kiribati.

A decision as to whether to offer or agree residence and reporting requirements is a matter for the absolute discretion of an immigration officer.

An immigration officer may at any time vary any residence or reporting requirements at the request or with the agreement of the person.

The agreement or variation of any residence or reporting requirements must be in writing and must list any requirements agreed and include a warning that, if the person fails to comply with any agreed requirement, the person may be detained under the Immigration Act.

An immigration officer may at any time, in the officer's absolute discretion, decide to end any agreement made above.

A person may be detained:

- a. if an immigration officer determines that the person, without reasonable excuse, has failed to reside at the specified place, or failed to comply with other agreed requirements
- b. if an immigration officer ends an agreement
- c. to execute a deportation order or place the person on the first available craft leaving Kiribati.

An agreement under this section lapses and the person ceases to be bound by it when the person leaves Kiribati or otherwise ceases to be liable to arrest and detention under the Immigration Act.

13. Application for warrant of commitment

See section 122 Immigration Act

An immigration officer may apply to the Magistrate Court for a warrant of commitment (or a further warrant of commitment) authorising a person's detention for up to 28 days where it becomes apparent that before the expiry of the detention period:

- a. there will not be a craft available to take the person from Kiribati
- b. the person is unlikely to supply satisfactory evidence of his or her identity
- c. the Minister has not made a decision as to whether to certify that the person constitutes a threat or risk to security, or
- d. for any other reason, the person is unable to leave Kiribati.

The Court must determine the application under the Immigration Act as appropriate.

14. Warrant of commitment

See section 123 Immigration Act

A warrant of commitment authorises the manager of the prison to detain the person to whom the warrant relates until the earliest of the following:

- a. in the case of a person liable for turnaround, the person is delivered into the custody of an immigration officer or constable and arrested and detained, for the purpose of placing the person on the first available craft to leave Kiribati
- b. in the case of a person liable for deportation, the person is delivered into the custody of an immigration officer or constable and arrested and detained, for the purpose of executing the deportation order
- c. written notification is received from an immigration officer that the person has ceased to be liable to arrest and detention under the Immigration Act
- d. a Court orders the release of the person
- e. the warrant of commitment expires.

15. Court may instead release person on conditions

See section 125 Immigration Act

Where the Magistrate Court orders a person's release on conditions, the conditions imposed on release may be any conditions that the Court thinks fit to impose in the circumstances, including all or any of the following conditions that the released person:

- a. must reside at a specified place
- b. must report to a specified place at specified periods or times in a specified manner
- c. provides a guarantor who is responsible for:

- i. ensuring the person complies with any conditions imposed under this section
 - ii. reporting any failure by the person to comply with those conditions
- d. takes a specified action for the purpose of facilitating their deportation or departure from Kiribati.

Where conditions are imposed on a released person the conditions must be notified in writing to the person before his or her release and take effect on release. The notice of conditions must include a warning that, if the person fails to comply with any condition, the person may be arrested and detained under the Immigration Act.

Conditions imposed under this section may be varied at any time by the Court on the application of the person released or an immigration officer under the Immigration Act or by consent between the released person and an immigration officer.

A variation of a condition takes effect immediately; but must be put in writing, and notified to the released person, as soon as practicable.

16. Detention beyond 6 months

See section 124 Immigration Act

Where a person would be detained under consecutive warrants of commitment for a continuous period of more than 6 months, a further warrant of commitment may be issued if the Court is satisfied that the person's departure is prevented by some action or inaction of the person and that no exceptional circumstances exist that would warrant release.

If the Court is not so satisfied, the Court must order the person's release on conditions.

An application for a further warrant of commitment must be supported by evidence under oath by an immigration officer, include a statement as to why the further warrant is required and may include any other supporting evidence. The Court may require the immigration officer to attend the hearing to give evidence and be subject to cross-examination.

17. Review of warrant of commitment or release on conditions

See section 125(3) Immigration Act

An immigration officer may apply to the Court for:

- a. a variation of the warrant of commitment
- b. an order that the person who is detained be released on conditions
- c. an order that the person be released from custody

- d. an order that the person who is released on conditions be detained under a warrant of commitment
- e. a variation of conditions.

A person detained under a warrant of commitment may apply to the Court for a variation of the warrant of commitment, or to be released on conditions. A person released on conditions may seek a variation of those conditions.

18. Right of access to counsel and legal aid

Any person in custody under the Immigration Act has the right to contact a lawyer or (if the detained person is a minor) any parent or guardian, or nominated responsible adult, and must be informed of that right.

If the detainee chooses to exercise that right, the person nominated must be allowed access to the detainee and to communicate with the detainee in private.

S. Minors

S. Minors

1. Definition of a Minor

A minor is a person who is under 18 years of age and not married.

2. Nomination of responsible adult

A minor's interests are to be represented by the minor's parent, and the parent is the responsible adult for the minor for the following matters under the Immigration Act:

- a. the minor's liability for deportation, and the deportation of the minor
- b. any review proceedings by the minor under the Immigration Act
- c. any detention of the minor under the Immigration Act.

If a minor does not have a parent to act as a responsible adult to represent their interests, a responsible adult must be nominated to represent their interests.

The responsible adult is to be nominated by the Minister or an immigration officer, as the case may require.

A person may be nominated as a responsible adult only if:

- a. the person is 20 years of age or older
- b. except in the case of a parent or guardian of the minor, the person is a Kiribati citizen or resident, or
- c. the person is
 - i. a parent, guardian or relative of the minor
 - ii. a person suggested by the minor
 - iii. any other person who is otherwise suitable to represent the minor's interests.

A responsible adult must supply an immigration officer with an address in Kiribati at which they may be notified of any matter concerning the minor.

The role of responsible adult finishes when the minor leaves Kiribati, or the proceedings concerned are complete.

To the extent practicable given the level of maturity and understanding of the minor, the responsible adult must try to find out the views of the minor and make them known on behalf of the minor, if appropriate.

Any document that must be served on or notified to the minor must instead be served to the responsible adult, and such service is presumed to be service to the minor.

3. Views of minor to be considered

In any proceedings or process relating to a minor, the minor must be given an opportunity to express their views on the matter, whether personally or through a responsible adult.

Due weight is to be given to those views taking into account the minor's age and level of maturity and understanding.

4. Serving a deportation order on a minor

If the subject of a deportation order is a minor the order must be served on the nominated responsible adult.

If a minor is to be deported from Kiribati and a parent or guardian is not accompanying them, immigration officers must make all reasonable efforts to contact their parent or guardian to agree on suitable travelling arrangements for them.

If agreement on the travel arrangements cannot be reached, immigration officers must make travel arrangements for the person in consultation with the nominated responsible adult for the person.

5. Detention of minors

A minor who is to be detained under the Immigration Act must have a responsible adult to represent their interests.

A minor may be detained only in exceptional circumstances, and the approval of the Secretary is required for any such detention.

T. Offences and Prosecutions

T. Offences and Prosecutions

1. Provision of false or misleading information

See section 108 Immigration Act

It is an offence to make a statement, or provide information, evidence, or a submission, knowing that it is false or misleading in any material respect, in support of:

- a. any application or request for a visa or entry permission
- b. any request for variation, waiver, or cancellation of the conditions of a visa
- c. any appeal to the Minister.

It is also an offence:

- a. to produce or surrender any document or supply any information to an immigration officer knowing that it is false or misleading in any material respect
- b. to complete any document required as part of a border requirement in a manner that the person knows to be false or misleading or fail to comply with any responsibilities under the Immigration Act.

2. Aiding and abetting

See section 109 Immigration Act

It is an offence to, for a material benefit, aid, abet, incite, counsel, or procure another person to remain unlawfully in Kiribati or to breach any conditions of a visa the other person holds.

Whether in or outside Kiribati, and whether the other person in fact enters Kiribati, it is also an offence to aid, abet, incite, counsel, or procure another person to:

- a. unlawfully enter Kiribati:
 - i. knowing that the other person's entry into Kiribati is or would be unlawful
 - ii. being reckless as to whether the other person's entry into Kiribati is or would be unlawful
- b. breach any condition of a visa the other person holds under the Immigration Act
- c. remain in Kiribati unlawfully
- d. complete a document for entry to Kiribati in a manner that the person aiding or assisting knows is false or misleading
- e. make an appeal or application in the nature of an appeal to the Minister or the Magistrate Court.

3. Obstruction or failing to meet requirements

See section 110 Immigration Act

It is an offence to obstruct an immigration officer or a constable when they are exercising powers under the Immigration Act or to fail to meet requirements under the Immigration Act. Such matters may be:

- a. to without reasonable excuse, refuse or fail to produce or surrender any document when required to do so by an immigration officer
- b. to fail to remain in an immigration control area or other prescribed place when required to do so, or follow an immigration officer's instructions while in an immigration control area or other prescribed place when required to do so.

4. Improper dealings with immigration or identity documents

See section 111 Immigration Act

It is an offence, whether inside or outside Kiribati, to produce, surrender or pass off an immigration or identity document:

- a. as one's own knowing the document relates to some other person, or
- b. knowing the document to have been forged or obtained fraudulently.

It is an offence, whether in or outside Kiribati, to sell, hire, lend, give, or otherwise dispose of an immigration document relating to oneself to any other person knowing that the other person intends to pass it off as relating to the receiver, or some other person, or sell, hire, lend, give, or otherwise dispose of it.

5. Alteration of forms

See section 112 Immigration Act

It is an offence for anyone, not being an immigration officer, after a person has signed a form and declared its contents to be true, to alter or add information entered on it or material attached to it and not identify that the information or contents have been altered, and who has made the alteration.

6. Offences relating to carriers or a person in charge of a craft

See 113 Immigration Act

Every carrier or person in charge of a commercial craft commits an offence who:

- a. fails without reasonable excuse to comply with any of the carrier's or the person's responsibilities

- b. allows a person to travel to Kiribati before a decision has been made by the Secretary under the Immigration Act
- c. having been notified of a decision made by the Secretary, without reasonable excuse fails to ensure that the person to whom the decision relates complies
- d. fails without reasonable excuse to comply with any of the carrier's or the person's obligations under the Immigration Act.

Every carrier, or person in charge, of a craft commits an offence who fails without reasonable excuse to comply with any of the requirements of the Immigration Act:

- a. prior to departure to Kiribati or en route to Kiribati
- b. on arrival in Kiribati
- c. prior to departure from Kiribati.

Proceedings in respect of an offence above may be taken against a carrier or person in charge of the craft, but not both, and whether the offence occurred in or out of Kiribati.

7. Offences by employers

See section 114 Immigration Act

It is an offence for an employer to:

- a. allow or continue to allow any person to work in their service, knowing that the person is not entitled under the Immigration Act to do that work
- b. allow a person who is not entitled under the Immigration Act to do that work.

It is a defence to a charge above if the employer took reasonable precautions and exercised due diligence to ascertain whether the person was entitled to do the work.

To take reasonable precautions to verify the work entitlement of an employee or potential employee, an employer should request suitable documentation proving the person's right to work in Kiribati.

8. Exploitation of unlawful employees and temporary workers

See section 115 Immigration Act

An employer commits an offence who, while allowing an unlawful employee or temporary worker to work in the employer's service is responsible for a serious failure to pay to the employee.

It is also an offence for an employer, while allowing an unlawful employee or temporary worker to work in the employer's service, to take an action with the intention of preventing or hindering the employee from:

- a. leaving the employer's service

- b. leaving Kiribati
- c. ascertaining or seeking his or her entitlements under the law of Kiribati
- d. disclosing to any person the circumstances of his or her work for the employer.

The following matters may be considered in deciding whether a failure, default, or contravention is serious:

- a. the amount of money involved
- b. whether it comprises a single instance or a series of instances
- c. if, it comprises a series of instances, the number of instances and the period over which they occurred
- d. whether or not it was intentional
- e. any other relevant matter.

The following are examples of actions of the kind referred to above:

- a. taking or retaining possession or control of a person's passport, any other travel or identity document, or travel tickets
- b. preventing or hindering a person from:
 - i. having access to a telephone
 - ii. using a telephone
 - iii. using a telephone privately
 - iv. leaving premises
 - v. leaving premises unaccompanied.

9. Offences by education providers

See section 116 Immigration Act

It is an offence for an education provider:

- a. to allow or continue to allow a person to undertake a programme of study knowing that the person is not entitled under the Immigration Act to undertake the programme of study
- b. to allow any other person to undertake a programme of study if the person is not entitled under the Immigration Act to take the programme of study.

Subsection (a) above does not apply to compulsory education. This means that a child may attend school in Kiribati whether or not they are legally entitled to study.

It is a defence to a charge under (b) above that the education provider did not know that the person was not entitled to undertake the programme of study; and took reasonable precautions and exercised due diligence to ascertain whether the person was entitled to undertake that programme of study.

Allowing a person to undertake a programme of study includes accepting the person for enrolment in a programme of study.

A person is treated as knowing that a person is not entitled under the Immigration Act to study in Kiribati if, at any time in the preceding 12 months the person has been informed of that fact in writing by an immigration officer.

An immigration officer may then require the educator to stop teaching or training that person. The immigration officer should confirm that requirement in writing and include a warning that failure to comply may result in prosecution.

