

**LAWS OF KIRIBATI  
REVISED EDITION 1979**

**CHAPTER 1A**

**AIR TUNGARU CORPORATION**

**ARRANGEMENT OF SECTIONS**

Section

**PART I**

**PRELIMINARY**

1. Short title
2. Interpretation

**PART II**

**ESTABLISHMENT OF CORPORATION AND ITS  
FUNCTIONS AND VESTING OF PROPERTY**

3. Establishment and incorporation of Air Tungaru Corporation
4. Vesting of assets and liabilities
5. Functions of Corporation
6. Power of Minister to give policy directions

**PART III**

**FINANCIAL PROVISIONS**

7. General duty of Corporation in financial matters
8. Funds of the Corporation
9. Power to borrow and raise capital
10. Application of revenue
11. Authorised investments

**PART IV**

**ACCOUNTS AND AUDIT**

12. Accounting of Corporation
13. Cash deposits and payments
14. Rules
15. Annual report
16. Exemptions from customs duty and income tax

Section

## PART V

## REGULATIONS

17. Regulations

## SCHEDULES

9 of 1977

**An Ordinance to provide for the establishment of a corporate body to be known as the Air Tungaru Corporation, for the performance by that body of functions relating to air transport services and for purposes incidental thereto or connected therewith**

*Commencement: 31st October 1977*

## PART I

## PRELIMINARY

Short title

**1.** This Ordinance may be cited as the Air Tungaru Corporation Ordinance.

Interpretation

**2.** In this Ordinance—

Schedule 2

“Accountant” means the person appointed by the Corporation as accountant under the provisions of Schedule 2, and includes any person for the time being performing the functions of the Accountant;

“air transport service” means a service for the carriage by air of passengers, mails or other freight;

“consumer” means a person who uses an air transport service provided by the Corporation;

“Corporation” means the Air Tungaru Corporation;

“financial year” means such period of 12 months as the Corporation with the approval of the Minister may determine to be its financial year.

## PART II

ESTABLISHMENT OF CORPORATION AND ITS  
FUNCTIONS AND VESTING OF PROPERTY

3. (1) There is hereby established the Air Tungaru Corporation which shall be a body corporate with perpetual succession and a common seal with power to purchase, take, hold and dispose of land and other property, to enter into contracts, to sue and be sued in its own name and to do all things necessary for the purposes of this Ordinance.

Establishment  
and incorpo-  
ration of Air  
Tungaru  
Corporation

(2) The provisions of Schedule 1 shall have effect as to the constitution of the Corporation and otherwise in relation thereto.

Schedule 1

(3) The provisions of Schedule 2 shall have effect as to the officers and employees of the Corporation and otherwise in relation thereto.

Schedule 2

(4) The Beretitenti, acting in accordance with the advice of the Cabinet, may by order amend any or all of the provisions of Schedule 1 or 2.

4. (1) The Minister may, upon such terms as he may agree with the Corporation, vest the use, occupation, management or control of any State land or of property or of any interest in such land or property or the rights, interests, obligations and liabilities of the Republic under any agreement relating to the provision of air services in the Corporation where it appears desirable to do so to enable the Corporation to discharge its functions.

Vesting of  
assets and  
liabilities

(2) Notwithstanding any of the provisions of this Ordinance, except with the prior written permission of the Minister the Corporation shall not dispose of, by way of sale, lease, sub-lease, mortgage, easement or otherwise, any land or interest in land vested in it.

5. (1) The Corporation shall, subject to the provisions of this Ordinance and to all regulations made under the Civil Aviation Act 1949 of England, have power to provide and promote air transport services and to carry out all other forms of aerial work, and may provide such services and carry out such work, whether on charter terms or otherwise, and it shall be the duty of the Corporation, either solely or jointly with others, to exercise its powers to secure that the air services which it may provide are developed to the best advantage and, in particular, to exercise its powers so as to secure that the services provided by the Corporation are provided at reasonable charges.

Functions of  
Corporation

(2) The Corporation shall have power, subject as hereinafter provided, to do anything which is calculated to facilitate the discharge of its functions under subsection (1) or of any other functions conferred or imposed on the Corporation by or under this Ordinance, or which is incidental or conducive to the discharge of any such functions, including, without limiting the generality of the foregoing, travel agency services.

(3) Without prejudice to the generality of the powers conferred by the preceding provisions of this section, the Corporation shall in particular have power, subject as hereinafter provided—

- (a) to acquire any undertaking constituted for the purpose of providing air transport services or of engaging in any other activities of a kind which the Corporation have power to carry on, or to acquire, hold or have any shares or stock in, or any financial interest in, any such undertaking; and
- (b) to promote the formation of any such undertaking as is mentioned in the preceding paragraph; and
- (c) to lend money to, or enter into guarantees for the benefits of, any such undertaking as aforesaid.

(4) The Minister may, by order—

- (a) define the powers conferred upon the Corporation by the preceding provisions of this section so far as he thinks desirable in the public interest so to do; or
- (b) limit the powers of the Corporation to such an extent as he thinks desirable in the public interest by providing that any power of the Corporation specified in the order shall not be exercisable except in accordance with a general or specific authority given by the Minister.

Power of  
Minister to  
give policy  
directions

6. (1) Subject to subsection (2), the Minister may give to the Corporation such directions as to the policy to be followed by the Corporation in the performance of its functions as appear to the Minister to be necessary, and the Corporation shall give effect to such directions.

(2) Where the Corporation certifies that it is of the opinion that it will not be possible to recover from the consumers concerned the costs incurred by the Corporation in giving effect to a direction given by the Minister under subsection (1), or that to give effect to such a direction will be impractical, uneconomic or otherwise result in financial loss to the Corporation, the Corporation shall not give effect to the direction until the Corporation is satisfied that provision has been made for the loss up to the

maximum estimated by the Corporation to be borne by the Republic.

(3) The Corporation shall furnish the Minister with such returns, accounts and other information as he may require with respect to the property and activities of the Corporation, and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

### PART III

#### FINANCIAL PROVISIONS

7. It shall be the duty of the Corporation so to exercise its powers and perform its functions under this Ordinance as to secure that the total revenues of the Corporation are sufficient, taking one year with another, to meet its total out-goings properly chargeable to revenue account, including depreciation and interest on capital.

General duty of Corporation in financial matters

8. The funds of the Corporation shall consist of such moneys as may from time to time be appropriated from the Consolidated Fund by way of loan, grant or subsidy and such other moneys as may lawfully be paid to or raised or borrowed by the Corporation.

Funds of the Corporation

9. (1) The Corporation may from time to time, with the approval of the Minister of Finance, borrow, secure or raise money by the issue of debentures or debenture stock, or other security, for all or any of the following purposes—

Power to borrow or raise capital

- (a) the provision of working capital; and
- (b) the fulfilling of the functions of the Corporation under this Ordinance; and
- (c) the provision of capital for the expansion of and addition to its fixed assets; and
- (d) the redemption of any debenture or debenture stock or other security that the Corporation is required or entitled to redeem; and
- (e) any other expenditure properly chargeable to capital account.

(2) The Corporation may, from time to time, borrow by way of overdraft or otherwise such sums as the Corporation may require for meeting its obligations and discharging its functions under this Ordinance.

Application  
of revenue

**10.** (1) The revenue of the Corporation for any financial year shall be applied in defraying the following charges—

- (a) the allowances of the members of the Corporation; and
- (b) the salaries, fees and remuneration of the officers, agents and employees, and technical and other advisers of the Corporation; and
- (c) working expenses, and expenditures on, or provision for, the maintenance of the property and of any of the equipment, apparatus or plant of the Corporation, and the insurance of the same and the discharge of the functions of the Corporation properly chargeable to revenue account; and
- (d) interest on any debenture and debenture stock or other security issued, and on any loan raised, by the Corporation; and
- (e) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of debentures or debenture stock or other security or the repayment of other borrowed money; and
- (f) such sums as it may be deemed appropriate to set aside in respect of depreciation on the property of the Corporation; and
- (g) any other expenditures authorised by the Corporation and properly chargeable to revenue account.

(2) The balance of the revenue of the Corporation shall be applied to the creation of reserve funds to finance future modernisation and expansion.

Authorised  
investments

**11.** Funds of the Corporation not immediately required to be expended in the meeting of any obligations or the discharge of any functions of the Corporation may be invested from time to time in securities approved by the Minister of Finance.

## PART IV

### ACCOUNTS AND AUDIT

Accounting  
of Corpora-  
tion

**12.** (1) All decisions, orders, rules and regulations relating to the financial operations of the Corporation and authorised by this Ordinance shall be made by resolution of the Corporation at a meeting thereof and shall be recorded in the minutes of the Corporation.

(2) The Corporation shall keep proper accounts and other records in respect of its operations, and shall cause to be prepared a statement in respect of each financial year in such form as the Director of Audit may direct or approve.

(3) The Corporation shall, before the commencement of each financial year, submit to the Minister a copy of its income and expenditure budget in relation to such year and the Minister shall cause copies of such budgets to be laid before the Maneaba ni Maungatabu.

(4) The accounts of the Corporation shall be examined by the Director of Audit in accordance with the provisions of Part VII of the Public Finance (Control and Audit) Ordinance.

Cap. 79

(5) Notwithstanding any power of the Corporation conferred by this Ordinance, where the Corporation intends to embark upon any programme for expanding its operations and services that will involve borrowing moneys required to be guaranteed under the provisions of the Government Borrowing and Guarantee Ordinance or that will require a longer period than 1 year to complete, the Corporation shall obtain the approval of the Minister of Finance thereto before incurring any liability in respect thereof.

Cap. 39

**13.** (1) All moneys that the Corporation accrues from its operations under this Ordinance shall be paid into some bank or banks appointed by resolution of the Corporation, and such moneys shall, as far as practicable, be paid into the bank from day to day, except such sum as the Accountant may be authorised by rules made under section 14 to retain in his hands to meet petty disbursements for immediate payments.

Cash deposits  
and payments

(2) All payments out of the funds of the Corporation except petty disbursements, not exceeding a sum to be fixed by rules made under section 14, shall be made by the Accountant, or, on his behalf, by any other officer appointed by the Corporation, in accordance with any such rules.

(3) Cheques against any banking account required to be kept or withdrawals from any savings bank account shall be signed by the Accountant and countersigned by the Manager or any member of the Corporation or any officer of the Corporation appointed by resolution of the Corporation for the purpose, and any such resolution shall be certified by the Chairman and forwarded to the bank or banks concerned.

**14.** The Corporation shall by resolution make rules in respect of the following matters—

Rules

- (a) the manner in which and the officers by whom payments are to be approved; and
- (b) the bank or banks into which the moneys of the Corporation are to be paid, the title of any account with any such bank, and the transfer of a fund from one account to another; and
- (c) the appointment of a member of the Corporation or an officer of the Corporation to countersign cheques on behalf of the Manager or in the absence of the Manager; and
- (d) the sum to be retained by the Accountant to meet petty disbursements and immediate payments and the maximum sum that may be so disbursed for any one payment; and
- (e) the method to be adopted in making payments out of the funds of the Corporation; and
- (f) generally as to all matters necessary for the proper keeping and control of the accounts and books and the control of the finances of the Corporation.

Annual  
report

**15.** (1) The Corporation shall, as soon as practicable after the end of each financial year, make and transmit to the Minister a report dealing generally with the activities of the Corporation during the preceding financial year and containing such information relating to the operations and policy of the Corporation as the Minister may from time to time direct.

(2) The Minister shall cause a copy of every such report to be laid before the Maneaba ni Maungatabu.

Exemption  
from customs  
duty and  
income tax

**16.** (1) Notwithstanding anything in any other Ordinance contained, all plant, machinery, appliances, apparatus, equipment and materials of every kind whatsoever imported into Kiribati by the Corporation for the purpose of carrying out its functions under this Ordinance shall be free of all customs duty, import levy or any other tax having a similar effect.

(2) Notwithstanding anything contained in the Income Tax Ordinance the income of the Corporation shall be wholly exempt from payment of income tax.

## PART V

### REGULATIONS

Regulations

**17.** The Beretitenti, acting in accordance with the advice of the



Cabinet given after consultation by the Minister with the Corporation, may make regulations for the better carrying out of the provisions of this Ordinance.

## SCHEDULE 1

### (Section 3 (2))

1. (1) The Corporation shall consist of not more than 5 nor less than 3 members appointed by notice by the Minister. Appointment of members

(2) Not more than 3 and not less than 1 of the members shall be at the time of their appointment employed as public officers.

2. (1) The Minister shall appoint 1 of the members to be the Chairman of the Corporation for such period as he may specify. Chairman

(2) The Chairman shall keep the Minister fully informed concerning the activities and operations of the Corporation, and shall furnish the Minister with such information as the Minister may request with respect to any particular matter relating to the activities and operations of the Corporation.

(3) The Corporation may by instrument in writing direct that, subject to such conditions as may be specified in that instrument, such of the functions of the Corporation as may be so specified shall (without prejudice to the performance of those functions by the Corporation) be performed by the Chairman.

(4) The Minister shall appoint 1 of the members to be the Deputy Chairman of the Corporation for such period as he may specify.

(5) In the case of the absence or inability to act of the Chairman, the Deputy Chairman shall perform the functions of the Chairman.

(6) In the case of the absence or inability to act of the Chairman and the Deputy Chairman the Minister may appoint 1 of the remaining members to perform the functions of the Chairman.

(7) In the case of the absence or inability to act at any meeting of both the Chairman and the Deputy Chairman the remaining members shall elect 1 of their number to act as Chairman at that meeting.

3. (1) A member shall, subject to the provisions of this Schedule, hold office for such period being not less than 2 nor more than 4 years as may be specified in the notice appointing him, but shall be eligible for re-appointment. Tenure of office

(2) The Minister may at any time revoke the appointment of any member if he thinks it expedient so to do, and if the appointment of the Chairman or Deputy Chairman is so revoked he shall cease to be Chairman or Deputy Chairman as the case may be.

4. (1) Any member, other than the Chairman and a member who is a public officer, may at any time resign his office by notice in writing addressed to the Minister and transmitted through the Chairman, and from the date of the receipt by the Minister of such notice such member shall cease to be a member of the Corporation. Resignation

(2) The Chairman may at any time resign his office by notice in writing addressed to the Minister, and such resignation shall take effect as from the date of the receipt of such notice by the Minister.

Authenti-  
cation of seal  
and docu-  
ments

Procedure  
and meetings

5. All documents, other than those required by law to be under seal, made by, and all decisions of, the Corporation may be signified under the hand of the Chairman or any member authorised to act in that behalf.

6. (1) The Corporation shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Corporation shall determine.

(2) The Chairman may at any time call a special meeting of the Corporation and shall call a special meeting to be held within 7 days of a written request to that effect addressed to him by any 2 members.

(3) The quorum of the Corporation shall be 3, including the Chairman or the Deputy Chairman or the member elected to act as the Chairman as aforesaid.

(4) Minutes in proper form for each meeting shall be kept and shall be confirmed, whenever practicable, at the next meeting. Certified copies of such minutes when so confirmed shall be forwarded to the Minister.

(5) The Corporation may co-opt any 1 or more persons to attend any particular meeting of the Corporation for the purposes of assisting or advising the Corporation, but no such co-opted person shall have any right to vote.

(6) Subject to the provisions of this Schedule, the Corporation may regulate its own proceedings.

Allowances  
to members  
of Corpora-  
tion

7. Members of the Corporation may be paid, out of the funds of the Corporation, such travelling and other expenses as may be incurred by them in respect of their duties as members of the Corporation, and, excepting those members who are public officers, an attendance allowance at such rate as may be determined from time to time by the Corporation.

Protection of  
members of  
Corporation

8. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Corporation in respect of any act done *bona fide* in pursuance or execution or intended execution of this Ordinance.

(2) Where any member of the Corporation is exempt from liability by reason only of the provisions of this paragraph, the Corporation shall be liable to the extent that it would be if the said member was a servant or agent of the Corporation.

Declaration  
of interest of  
member

9. If a member of the Corporation has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the Corporation at which the contract or other matter is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose to the Corporation the fact and nature of his interest, and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

## SCHEDULE 2

### (Section 3 (3))

Appointment  
of staff of  
Corporation

1. (1) The Corporation shall, after consultation with the Public Service Commission, appoint a Manager.

(2) The Manager shall be the Chief Executive of the Corporation, and shall direct the entire staff and all other administrative and operational functions of the Corporation.

(3) The Corporation shall from time to time establish such other posts (including that of Accountant) as it considers necessary and proper for the due and efficient administration, management and performance by the Corporation of its duties under this Ordinance and shall, acting on the recommendation of the Public Service Commission, appoint staff to fill those posts.

(4) The termination of appointment, dismissal and disciplinary control of the staff of the Corporation shall be vested in the Corporation, acting on the recommendation of the Public Service Commission.

(5) The Public Service Commission may second to any office in the service of the Corporation a public officer and the Public Service Commission may approve the transfer of an officer from the service of the Corporation to the public service or from the public service to the service of the Corporation.

2. All officers charged with the receipt, accounting for, or disbursements of moneys, or with the custody or delivery of stores or other property, belonging to the Corporation shall be individually responsible for the due and efficient discharge of their respective duties, and for the exercise of proper supervision of the accounts kept or controlled by them and of all the property entrusted to their care, and for the due observance of all rules and regulations and of all orders and instructions prescribed for their guidance.

Responsi-  
bility of cer-  
tain officers